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A Review of Selected Court Cases Dealing with the Evolutionary Legality of Taxation for Support of Public Schools from Kalamazoo, 30 Michigan 69 (1874) to the Present

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**A REVIEW OF SELECTED COURT CASES DEALING WITH
THE EVOLUTIONARY LEGALITY OF TAXATION FOR
SUPPORT OF PUBLIC SCHOOLS FROM KALAMAZOO, 30
MICHIGAN 69 (1874) TO THE PRESENT**

(TITLE)

BY

JEROME CHARLES METZGER

THESIS

SUBMITTED IN PARTIAL FULFILLMENT OF THE REQUIREMENTS
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CHARLESTON, ILLINOIS

1967

YEAR

I HEREBY RECOMMEND THIS THESIS BE ACCEPTED AS FULFILLING
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PREFACE

This thesis, a general review of selected court cases dealing with the legality and limitations of school taxation, was conceived from an original interest in school taxation while enrolled in School Law #485, summer 1966, Eastern Illinois University.

Although somewhat different and unusual in its basic presentation, the structure of this thesis is correlated in form to give a general comparison of school taxation limitations within various states. To understand and comprehend this work, the entire thesis must be taken as a whole; it must not be divided for analysis.

The author wishes to thank Dr. Harry R. Larson for his inspiration and guidance, Dr. Curtis R. Garner for his sincere interest and basic analysis, and Dr. Robert V. Shuff, Chairman, for his forbearance and special concessions.

JCM
April 1967

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1910	<u>State vs. Board of Education of School District of Parkersburg</u>	35
(WISCONSIN)		
1958	<u>Foscato vs. Byrne</u>	84
1954	<u>Frank Lloyd Wright Foundation vs. Town of Wyoming</u>	77
1931	<u>State vs. City of Racine</u>	50
1893	<u>State vs. Lamont</u>	16

I. INTRODUCTION

In the court case of Stuart vs. School District Number 1, 1874,¹ commonly called the Kalamazoo case, school authorities in union school districts were said to have the power or right to levy taxes upon the general public for the support of high schools. This court decision, although not the first court case to state that schools could levy taxes to support general public institutions, was the first decision by a high court that high schools were to be construed as a part of the general free educational system and that taxes could be levied for their general support.

I. THE PROBLEM

The purpose of this study was to establish the apparent contemporary limits of selected public and private school activities for which public tax support has been upheld by the United States and State Supreme Courts.

II. DELIMITATIONS OF THE STUDY

The original starting date of this study (1874) was chosen for two general purposes. First, the Kalamazoo case is considered a precedential case in school law. This court decision defined the right to tax the general public for support of a general high school education. Second, this court decision implied that high schools were to be construed as a part of the general common school educational system.

¹43 American Digest (1903), Schools and School Districts, sect. 258 "citing" Stuart vs. School District Number 1, 30 Michigan 69 (1874).

This study will be confined to cases reported from the United States and State Supreme Courts because these courts usually represent the level of final jurisdiction in the general court hierarchy. It is further confined to cases involving the legal propriety of public taxation as a central question.

This study is not intended as a substitute for professional legal counsel.

III. METHODS OF PROCEDURE

(I) To extract and list the cases heard before the United States and State Supreme Courts pertinent to the legality of taxation for public and private school activities since 1874 from among the cases indexed in West's Key System (West Publishing Company, St. Paul, Minnesota) and general volumes of the following law studies: American Law Reports, ALR; Ruling Case Law, RCL; Corpus Juris Secundum, CJS; American Jurisprudence, Am. Jur.; American Digest; and the National Reporters, under the headings of Schools, School Districts, Transportation, Municipalities, Taxation, Corporations, Property, and Trustees.

(II) The task of investigating and reporting the problem was undertaken in the following order:

1. A general search of library materials in order to establish the existence of related literature through the use of documented abstracts, including a perusal of Dissertation Abstracts.

2. Access was obtained to the entire collection of United States reports of all high state and federal courts through the facilities of the Macon County Law Library, Macon County Building, Decatur, Illinois and the University of Illinois Law Library, Champaign, Illinois. Pertinent court cases were read to determine whether

or not the probability of public taxation existed in the areas of investigation in the points of question.

3. The cases pertinent to the problem of the study were extracted and arranged in chronological order for analysis.

4. Under a brief index of topics covering apparently distinct aspects of the taxation question, see appendix number two, the cases were listed in order of importance. All cases considered to be of minor importance to this study were discarded.

5. All court cases selected for this study were arranged in chronological order and presented in relation to the general subject outline and periodical time segments, see appendix number two and chapter titles (index).

6. Pertinent court decisions were reported in the final chapter of this study.

7. A comprehensive, detailed cross- and quick-reference index was prepared.

8. A table of all court cases used as reference sources for this study was prepared.

IV. DEFINITIONS

The following definitions, and additional general terms recorded in appendix number one, are pertinent to this study:

1. contemporary limits - general scope of activities; to what degree within the law
2. taxation - compulsory contributions levied on persons, property, or business for the support of governmental agencies and their respective operations
3. support - subsistence; maintain; supplying things necessary for existence
4. upheld - determine as lawful; within the law

5. U. S. and State Supreme Courts - courts of highest jurisdiction within the various states and at the federal level
6. court decisions - judgments developed by courts of law
7. legality - conforming to law and reason
8. public schools - institutions of learning operated for and by the community; open to all
9. private schools - all nonpublic schools
10. law - an ordinance of reason, properly promulgated, passed upon the public by proper authorities for the common good

V. LAW CONCEPTS RELEVANT TO THIS STUDY

Law used as a general term can have a variety of meanings or definitions.

To the sociologist the word law means an ordinance of reason enacted for the common good by the person or persons who have authority within the community and subsequently promulgated by them.¹ To the attorney directly involved in court cases dealing with school taxation a definition might be the total body of legal rules which affect school actions.² A variety of definitions could be presented from a variety of scholarly disciplines. However, these two definitions illustrate a basic reference point — law without sanction is law relative to the interpreter. From this reference point one might ask just what is the law as it affects schools and school districts in relation to taxation? Is law an interpretation by the taxpayer? Is law an interpretation by the superintendent of a given school system? Is law an interpretation by a given state legislature? Is law an interpretation by the courts of law?

Law might best be illustrated as a variety of things, all of which might

¹Francis J. Haas, Man and Society (New York: Appleton-Century-Crofts, 1952), p. 393.

²Madaline K. Remmlein, School Law (Danville, Illinois: The Interstate Printers & Publishers, 1962), p. xix.

have some effect upon the legality of taxation for support of public schools. Law might be construed to be the various state statutes, court decisions, both the federal and state constitutions, basic traditions of the people, and the will of the people.

The statute books are filled with laws which have great influence upon the actions taken by school districts. In toto, the statutes of the various states, as well as federal statutes, are the most prolific sources of school laws. Court decisions affecting school actions are so numerous that many volumes would be needed to hold all the decisions and citations of the courts which would have a direct or indirect influence upon school districts. The federal and state constitutions have considerable impact upon school actions. This can best be illustrated by mentioning the great number of federal grants to education; such as, the National Defense Student Loan Program, the National Science Foundation Program, and the National Merit Scholarship Program. Tradition and its import on school actions can be seen through the perspective view of the historian. Many of the traditional factors of law in our modern-day concepts originated with the Greeks. The Romans, generally considered to be the followers of the great Greek concepts, continued the Greek concepts of law and made additional refinements. Finally, the will of the people and its profound impact plays an important part in its relation to law. The best example being the consent or veto power of the people at the polls.

Thus, law per se can be construed to be concepts originating with the Greeks two thousand years ago or voting sanctions originating within hours or minutes of the final voting decision. Law is old and new; it is a compromise which yields some form of, or combination of, commutative, distributive, social, or punitive

justice.

This study is concerned with one of the five main areas of law determinants — court decisions. However, it must not be inferred that the various state and federal constitutions and statutes are divorced from this study. On the contrary, all court decisions are judgments based upon specific principles of law stemming from explicit constitutional provisions, statutes, or established legal precedents. In other words, the various courts judge the legality or lawfulness and reasonableness of the law, not its wisdom.

Whether laws are written in detail form or are merely generally accepted policies, their intent, reasonableness, or proper interpretation seems almost certain to be questioned at some point.

VI. IMPLICATIONS OF THE STUDY

The completed thesis will serve as a reference source to the establishment of contemporary limits of selected public and private school activities for which tax support has been upheld by the highest courts of the various states as well as the United States Supreme Court.

In toto, the courts have ruled on a massive number of legal questions. It is apparent that most law textbooks illustrate only a few important concepts related to school districts. These authoritative books do not give attention to many aspects of school law which affect school actions. This study, in contrast, establishes the basic limitations of school activities in a number of categories that are not usually found in law textbooks.

Some of the materials presented in this study serve to illustrate a formal, professional reference point for general law contrasts. As an example,

under some working circumstances (matters concerning general school policy, number of teachers needed for a given school year, and the determination of the number of schools needed for a given school district) the school district is considered a delegated agent of the state with complete and comprehensive powers. In contrast to this comprehensive autonomy, in matters of tax collection the school district is considered only an agent for the determination of the amount of funds needed; civil authorities act as official collecting agencies and determine the required rate of taxation, in most states.

This study will present contrasts and comparisons in regard to judgments relating to similar points of law in relation to school activities.

II. COURT CASES FROM 1874 TO 1885

In some states, the constitution expressly authorizes the delegation of taxing power to public school districts. ¹ In general terms, the legislature of a state has the power to provide for public schools by taxation. In addition, the legislature may have the duty to provide for public schools, according to the state constitution, by taxation. ²

In another Illinois case, the court refused to restrain the collection of a school tax levied under a statute authorizing the maintenance of township high schools, where the constitution declared that the legislature shall provide a system of free common schools for the conferring of a common school education. ³

The power of taxation is inherent in sovereignty (state) and is therefore essential to the existence of an independent government. ⁴

It can be seen from the above mentioned cases that the legislature is responsible for public educational systems. The basic reasoning behind the states' rights in education rests within the Tenth Amendment to the Federal Constitution. This specific Amendment reserves to the states all matters not delegated to the Federal Government. Education is not mentioned in the articles of the Constitution

¹People vs. McAdams, 82 Ill. 356 (1876).

²Robinson vs. Schenck, 102 Ind. 307, 1 N. E. 698 (1885).

³Richards vs. Raymond, 34 Am. Rep. 151, 92 Ill. 612 (1879).

⁴Hoge vs. Richmond and D. R. Co., 99 U. S. 348, 25 L. Ed. 303 (1878).

and therefore, under the Tenth Amendment, is reserved to the states and their general discretion.

As a general proposition of law, the sovereign power of taxation is incapable of delegation. However, there is a recognized exception to this rule in the case of the political subdivisions of the state. The power of the legislature to authorize municipal corporations to levy taxes for the purpose of providing the necessary revenue to defray the expenses of municipal government has been exercised for so long that its existence is not open to criticism or dispute. ¹

Boards of Education in cities of the first class do not have power, like authorities of school districts, to impose a tax for school purposes, but only to report an estimate. ²

Taxes are not debts in the ordinary sense of the word, but forced contributions for the support of the body politic. ³

The state has power to tax all persons, property, and business within its jurisdiction or reach so long as it does not trench upon the Constitution of the United States. ⁴

The education of children is generally recognized as a public duty and a proper purpose for support by taxation. What particular educational purposes

¹United States vs. New Orleans, 98 U. S. 381, 25 L. Ed. 225 (1879).

²State vs. City of Omaha, 7 Neb. 267 (1878). Supra, p. 8, footnote number one.

³Jones vs. Gibson, 82 Ky. 561 (1885).
Geren vs. Gruber, 26 La. Ann. 694 (1874).

⁴Dundes Mortg. Trust Investment Co. vs. School District No. 1, 19 F. 359 (1884).

authorize the exercise of a taxing power? The right to levy taxes for educational purposes is not limited to the lower or common schools, but extends to high schools.¹

Taxes may be levied to build schoolhouses and to maintain the common-school system, and otherwise carry out the public duty of the education of children.²

"Present Constitution, adopted May 13, 1870 at Springfield, Illinois, section 1 of article 8, provides that the General Assembly shall provide a thorough and efficient system of free schools is intended as the power of the legislature to provide for the maintenance of free schools by local taxation.

"Where the proceedings under which a high school of a township was established are regular and in conformity to a valid law, the levy and collection of a tax to maintain the school will not be enjoined."³ (Underlining mine).

In the original court case for beginning this review, the Kalamazoo case, three important items were declared for Michigan's free public schools: First, the court held that in the absence of constitutional or statutory restrictions the branches of knowledge which district officers may cause to be taught or the grade of instruction which may be given is not limited where the voters consent in regular form to bear the expenses and raise the taxes thereof. Second, the school authorities may tax for the support of what are known as high schools. Third, schools may provide free instruction in languages other than English.⁴ Thus, high schools as such were allowed great freedom in their basic curricula or scholastic programs. Furthermore, high schools were considered as part of the

¹Richards vs. Raymond, 34 Am. Rep. 151, Anno: 14 LRA 474, 92 Ill. 612 (1879).

²Weightman vs. Clarke, 103 U. S. 256, 26 L. Ed. 392 (1880).

³Richards vs. Raymond, loc. cit.

⁴Stuart vs. Kalamazoo School District No. 1, 30 Mich. 69 (1874).

common schools.

The power to tax for township high school purposes may be implied from a statute giving the township trustees the power of district directors for the purpose of building the schoolhouse, supporting the school, and other necessary expenses, where the district directors have such powers with respect to district schools. ¹ This same early Illinois case states that the school laws (statutes) giving trustees of high schools the power of directors for such district in all respects, (Revised Statutes of 1874, p. 957, section 35), authorizes them to levy high school taxes.

Payments for the support and care of girls committed to a sectarian industrial school have been sustained where the sum paid was less than the actual cost of their support and care in similar state institutions. ²

Under some statutes the property of a railroad may be assessed as a whole by a state board and the total valuation distributed among the several counties through which the railroad runs. Ordinarily, however, railroad property is situated in a school district in which it has situs. ³

Usually, personal property is taxable in the district in which it is permanently located. However, in some states, under statutory control, personal property is not taxable in a school district where the owner resides when the personal property is located in another school district.

In one example of this situation, the legislature gave strict control

¹Fisher vs. People, 84 Ill. 491 (1877).

²Weightman vs. Clarke, loc. cit.

³Livingston vs. Hannibal, etc. R. Co., 60 Mo. 516 (1875).

over the assessment of taxes on particular shares of a national bank. The legislature commanded that the shares could only be taxed in Newburyport. The court ruled that Newbury could not include these shares in her evaluation under the existing laws (1879). The owner of said shares had his domicile within the town of Newbury. ¹

In connection with the Newbury case mentioned above, it has been held that a local school tax can be imposed only for a local purpose. ²

In some school districts, but not in all districts, the amount required for schools (subsistence money) is under the applicable statutory provisions determined by said school district's authorities. Usually, the school authorities forward an estimate of needed currency to some other governmental agency for the purpose of levy or collection. If such a report, certificate, or estimate is not furnished, the levying board cannot be charged with neglect of duty in failing to levy the school tax. ³

Taxable property for the purpose of assessing school taxes is to be ascertained and assessed on same general principles as govern in making assessment of general taxes. ⁴

At least one state, Indiana, has condemned the use of the poll tax for school purposes. An Indianapolis case certified that a city has no authority to levy a poll tax to raise a fund merely for the general support of the common schools

¹Little vs. Little, 131 Mass. 367 (1879).

²Bromley vs. Reynolds, 2 Utah 525 (1880).

³Beard vs. Lee County, 51 Miss. 542 (1875).

⁴Stephens vs. School District No. 21, 6 Oregon 358 (1877).

within its jurisdiction. ¹

Parochial schools, gratuitously open to all, without distinction of sect, but which were managed and controlled exclusively by the officials of the church, were held not to be exempt from taxation as public schools. ²

Where two independent school districts partly embrace common territory, such territory should be included within the district whose organization was first commenced, and a school tax thereon should be levied in its favor. ³

As a general rule, the principles governing the place of taxation of property for school purposes apply after there has been a change in boundary or the creation of a new district. Where special provisions have been made, school taxes should, after a change in boundary, be levied in the manner so provided. ⁴

¹Board of School Commissioners of Indianapolis vs. Magner, 84 Ind. 67 (1882).

²Saint Joseph's Church vs. Assessor of Taxes, 12 R. I. 19, 34 Am. Rep. 597 (1878).

³Sheldon Independent District vs. Sioux County, 51 Iowa 658, 2 N. W. 590 (1879).

⁴Burlington, etc. R. Co. vs. Lancaster County, 12 Neb. 324, 11 N. W. 332 (1882).

III. COURT CASES FROM 1886 TO 1895

The board of trustees of a civil town having no authority to levy a tax for a special school fund, such unauthorized levy cannot be legalized by ratification by the board of trustees of the school town.¹

"The legislative scheme for the establishment and maintenance of a system of public schools contemplates the exercise by the municipal authorities of the power to raise revenue for that purpose either by taxation or the issue of bonds, or both.

"Where an election was held in conformity with the act so establishing a system of public schools, and where the popular vote was in favor of the establishment of the system of schools provided for, the mayor, and council, may lawfully levy an annual tax." ²

From the above two court cases it can be determined that when the people agree to make funds available for school purposes by taxation, and where all procedures are sanctioned by the legislature, taxation per se is a common feature of school authorities' budgets.

"It is not a valid objection to the statute (authorizing the annexation of contiguous municipalities) or to annexation under it, that a municipal corporation may be so annexed without the consent of its constituted authorities or of its inhabitants, nor that the taxable property within such municipality will become subject to taxation for the payment of previously incurred indebtedness of the city to which the annexation shall be made." ³

¹Shepardson vs. Gillett, 133 Ind. 125, 31 N. E. 788 (1892).

²Ayers vs. McCalla, 95 Ga. 555, 22 S. E. 295 (1895).

³State ex rel. Richards vs. Cincinnati, 52 Ohio St. 419, 27 LRA 737, 40 N. E. 508 (1895).

Furthermore, whether the imposition of a tax is necessary is a matter for the determination of the taxing power. ¹

In relation to the sovereign power of taxation by subdivisions of the state, municipal corporations may tax to pay for the construction of public improvements. This power being delegated by the state to municipal and quasi-municipal corporations. ²

It has been recognized in some states that taxes for public school purposes are taxes for corporation purposes. ³ This same California case also makes mention of counties, cities, etc.

"Under Constitution article 11, section 12, providing that the legislature may not impose taxes on counties, cities, or other municipal corporations for county, city, or other municipal purposes, but may rest in the corporate authorities thereof power to assess taxes for such purposes." ⁴

In some states, the validity of legislation delegating to school districts the power to levy taxes for their corporate purposes depends upon the status of the district as an incorporated town within constitutional provisions expressly authorizing or expressly prohibiting the delegation of taxing powers to such bodies.

Along with the term incorporated town are additional references; such as, municipal corporation, private corporation, and special commission.

¹Anderson vs. City of Mayfield, 93 Ky. 230, 19 S. W. 598 (1892).

²New Orleans Waterworks Co. vs. Louisiana Sugar Ref. Co., 125 U. S. 18, 8 S. Ct. 741, 31 L. Ed. 607 (1887).

David vs. Litchfield, 145 Ill. 313, 33 N. E. 888 (1893).

Supra, p. 9.

³McCabe vs. Carpenter, 46 ALR 697, section 106 ALR 916, 102 Cal. 469, 36 P 836 (1894).

⁴Ibid.

School districts have been held not to be incorporated towns within the meaning of a constitutional provision authorizing delegation of taxing power. ¹

A tax levy for schools cannot be made legal by officers not duly authorized. ² And officers authorized to levy a school tax cannot delegate the power to others. ³

School districts have been declared political organizations possessing the power of taxation. ⁴ And taxes have been held to be enforced contributions from persons and property, levied by the state, for the support of the government. ⁵

The board of a joint free high school district, having the power and authority of ordinary school district boards, may bring mandamus against the clerk of a town in the district, to insert in the tax roll of the town a tax for its proportional share for the support of the school, as fixed by the board. ⁶

As the term is generally used in the United States, a college is an institution of higher learning. Most colleges are incorporated institutions. The colleges receive high school graduates and offer them a wide selection of courses in the arts, in letters, or in the sciences. The end result being the acquisition of knowledge and a bachelor's degree.

Incorporated universities and colleges are divided into two classes —

¹People ex rel. School District vs. Lake County, 46 ALR 653, 113 ALR 1420, 12 Colo. 89, 19 P 892 (1888).

²Shepardson vs. Gillett, loc. cit.

³Ibid.
Ogden Board of Education vs. Brown, 12 Utah 251, 42 P 1109 (1895).

⁴Landis vs. Ashworth, 57 N. J. Law (28 Vroom) 509, 31 A 1017 (1895).

⁵Succession of Mercier, 11 LRA 817, 8 So 732, 42 La. Ann. 1135 (1890).

⁶State vs. Lamont, 86 Wisc. 563, 57 N. W. 369 (1893).

private and public corporations. ¹

A statute authorizing a levy of a tax for schools authorizes the levy of a tax for school buildings. ² However, in another specific railroad case, it was held by the courts that where a classification of taxes is made into taxes for school purposes, taxes for the purpose of erecting public buildings, and taxes to pay existing indebtedness, authority to levy taxes for school purposes does not authorize a levy for school buildings. ³

"Under the laws of Missouri school taxes cannot be levied on railroad property for building purposes, but only for school purposes proper." ⁴

In Iowa, a tax for the specific purpose of the erection of a necessary schoolhouse is legal. In this unusual case a new schoolhouse was located in the geographical center of a subdistrict and was sufficiently necessary as to make a tax legal even though the subdistrict was only two miles wide and the existing schoolhouse, which had been standing for thirty years, was half a mile from the geographical center. It was maintained that some of the children could not attend due to transportation difficulties. It was granted by the school district authorities, however, that the old schoolhouse could have been used for an additional period of time in the new site but that it could not advantageously be moved to the new area. ⁵

¹State ex rel. White vs. Neff, 52 Ohio St. 375, 28 LRA 409, 40 N. E. 720 (1895). Infra, chpt. 4.

²St. Louis, etc. R. Co. vs. Gracy, 126 Mo. 472, 29 S. W. 579 (1894).

³State vs. Wabash, etc. R. Co., 90 Mo. 166, 2 S. W. 275 (1886).

⁴Ibid.

⁵Seaman vs. Baughman, 82 Iowa 216, 11 LRA 354, 47 N. W. 1091 (1891).

The electors of a school district (township), in voting a tax for purchase of a local site and the construction of a school, are not required under the Iowa School Code, section 1717, to vote by ballot in the absence of specific requirements requiring them to vote a tax. ¹

In 1886 a school building was condemned and was subsequently repaired out of private funds of trustees. This debt was unpaid five years later (1891), when the trustees ordered a tax levied for additional repairs. The order of condemnation was a verbal one, by the superintendent. The superintendent later reduced the order to writing, but it was never recorded in the trustee's books. In 1892, the trustees, doubting the validity of such order, and with intent to validate it, made another order, reciting the former one, and directing the tax to be imposed and collected as and for the year 1891. The court ruled that the tax was valid. The court maintained that property owners cannot avoid a tax afterwards lawfully imposed to pay for such repairs. ²

In addition, where a board of school directors has power to rent buildings for schoolhouses, a statute authorizing the levy of a tax for the purchase of, or payment for, ground and the erection of school buildings thereon authorizes the levy of a special tax for the purpose of paying rent on a building to be used as a schoolhouse. ³

Taxing the property of white persons for the maintenance of a school

¹Seaman vs. Baughman, loc. cit.

²Louisville, etc. Railroad Co. vs. School District No. 108, 16 Ky. L. 554, 29 S. W. 340 (1895).

³Hackett vs. Emporium Borough School District, 150 Pa. 220, 24 A 627 (1892).

for white persons, applies to corporations, unless their stockholders are black persons. ¹

"Comp. Laws of Utah, 677, provide that the county court shall divide the county into school-districts, and may change the boundaries, and that taxes shall be assessed on the district for school purposes. A county court extended the boundaries of a school district fifteen miles, taxing in a part of certain railroad property. The intervening country was mountainous and difficult to cross. Held, that the extension was authorized, and the property of the railroad company was liable for a schoolhouse erected within the district, though twenty-five miles distant therefrom." ²

A number of cases have been cited above in relation to railroad property and the legality of taxation. It is interesting to note that a large majority of these cases are declared in favor of the school district, county, etc., and against the railroad per se. The railroad seems to be a ready target for school funds in the majority of local areas, especially in the western states where there is relatively few industrial corporations that can be taxed.

There is a time factor to be considered here also. From the early days of the railroad (1827 - Baltimore and Ohio) to the turn of the century, many railroads were organized and consequently invaded the small, local, rural areas. It was only natural to tax these existing invaders and their great wealth.

One other remark might be made here concerning the railroads. The power to tax has been demonstrated by the state, as a sovereign; the railroad must show the necessity of not being taxed -- the burden of proof rests with the railroad.

¹Pineville Public Graded Schools vs. Belle County Coke, etc. Co., 96 Ky. 68, 16 Ky. L. 283, 27 S. W. 862 (1890).

²King vs. Utah Central R. Co., 6 Utah 281, 22 P 158 (1889).

"Where the boundaries of a city of 10,000 inhabitants which constitutes one school-district, are enlarged, the school board and funds of the district as enlarged are charged with the maintenance of the schools in the whole district; the school board at its next annual meeting preceding the annual tax levy shall fix the amount required for school purposes — the funds for the school must be raised from the whole district by equal taxation, regardless of when the assessment period commenced, or the boundaries of the district at such time, or when the monies will be available or expended." ¹

Taxes must be collected in the manner so provided in the special arrangements made when there has been a change in boundary or the creation of a new district. ²

Territory embracing portions of another district or districts which is annexed to a school district is subject to the power to tax within the newly created or constituted district. ³

¹Seattle School District No. 1 vs. King County, 3 Wash. 154, 28 P 376 (1891).

²Eakins vs. Eakins, 14 Ky. L. 562, 20 S. W. 235 (1892).

³Eckstein vs. Chicago Junction Board of Education, 4 Ohio Cir. Dec. 149 (1894).

IV. COURT CASES FROM 1896 TO 1905

A sub-school district of a city may levy taxes for building purposes irregardless of the fact that the central board of education has the power to determine the amount necessary for conducting the schools; provisions for building not being included in such power. ¹

It is almost universally held that the state may delegate to municipal corporations the power to make and levy special or local assessments. ² The legislature may not only empower school districts to levy a tax, but may compel them to do so, even without the consent of those who are to be taxed. ³ In exercising the power of local assessment, the legislature is not limited to the actual increase in value of the property assessed resulting from local improvement. ⁴

The power of taxation is inherent in sovereignty as an incident or attribute thereof. ⁵ Provisions of a charter of a railroad company that the stock in the company, the dividends thereon, and the road and fixtures, depots, workshops, warehouses, and vehicles of transportation of the company, shall be forever exempt

¹Mellor vs. Pittsburg, 201 Pa. 397, 50 A 1011 (1902).

²Arnold vs. Knoxville, 115 Tenn. 195, 90 S. W. 469 (1905).

³State ex rel. McCausland vs. Freeman, 47 LRA 67, 61 Kan. 90, 58 P 959 (1899).

⁴Rolph vs. Fargo, 7 N. D. 640, 42 LRA 646, 76 N. W. 242 (1898).

⁵Union Refrigerator Transit Company vs. Lynch, 18 Utah 378, 48 LRA 790, 55 P 639 (1898); affirmed in 177 U. S. 149, 20 S. Ct. 631, 44 L. Ed. 708 (1899).

from taxation, does not exempt the company from privilege taxation. ¹

Railroad cars, owned by a Kentucky corporation having no place of business in Kentucky, leased to various shippers, but coming into or passing through, and doing business in, Kentucky, have, for the purpose of taxation, situs in Kentucky. ²

Life insurance policies are personal property within the taxation structure; they are not, however, subject to school taxation.

If a public corporation is sanctioned by the legislature and its trustees are later elected by the people, it is considered a public corporation and not subject to taxation (some state universities). ⁴

Irregardless of the nature of a state university in relation to the basic taxation procedures, a state university may receive gifts or grants in financial support thereof.

"An unincorporated state university, recognized by various state statutes relating to its organization, government, and functions as having an existence distinct from that of its regents, who are incorporated, is capable of taking a devise, notwithstanding that its organic act provides that gifts to it may be made to the regents and to the state." ⁵

If incorporated universities and colleges are founded by private

¹Knoxville and O. R. Co. vs. Harris, 53 LRA 921, 99 Tenn. 684, 43 S. W. 115 (1897).

²Union Refrigerator Transit Co. vs. Lynch, loc. cit.

³State Tax Commissioner vs. Holliday, 150 Ind. 216, 42 LRA 826, 49 N. E. 14 (1898).

⁴Spalding vs. People, 172 Ill. 40, 49 N. E. 993 (1898).

⁵Re Royer, 44 LRA 364, 123 Cal. 614, 56 P 461 (1899).

individuals or supported by private funds or privately endowed, it is considered to be a private corporation.

Illinois State Normal University, now Illinois State University, located in Normal, Illinois, is an example of the above mentioned situation.

"Under Constitution article 8, section 1, which requires the general assembly to provide a thorough and efficient system of free schools, whereby all children within the state may receive a good common-school education, the legislature may provide for the education of teachers for the common schools; and hence an appropriation of state funds to defray the expenses of the Illinois State Normal University, a private corporation created by Act Feb. 18, 1857, whose object it was to qualify teachers for the common schools of the state, does not violate Constitution article 4, section 13, which prohibits the state from becoming responsible for the debts or liabilities of, or to loan its credit in aid of, any public or other corporation, association, or individual." ¹

On the other hand, incorporated universities which are founded and supported by the state or a municipal subdivision thereof are public, rather than private, corporations, and are so treated by the courts. ²

The Agricultural and Mechanical College of Oklahoma is an example of the above mentioned situation.

"The Agricultural and Mechanical College, which is strictly a public or quasi corporation, created and existing under and by virtue of the laws of the territory of Oklahoma, cannot in the absence of express statutory authority therefor, be sued, and no such authority exists in this territory; hence said institution cannot be sued." ³

A municipal corporation could not, under the general welfare clause

¹Boehm vs. Hertz, 182 Ill. 154, 48 LRA 575, 54 N. E. 973 (1899).

²Re Royer, loc. cit.

³Oklahoma Agricultural and Mechanical College vs. Willis, 6 Okla. 593, 40 LRA 677, 52 P 921 (1898).

of its charter, levy a school tax. ¹

The board of trustees of an incorporated town have no power to assess school property for the construction of a street in front thereof. ²

Where an assessment is levied by the city or a park board having authority to levy the same, school property, not a part of school section sixteen (#16) nor acquired with funds derived from that source, is subject to such assessment. ³ And lots, the title of which is in the board of education of a city, cannot be sold to enforce the collection of a special collection (assessment) for street improvements, it is not a valid objection to the assessment that there is no method under the law by means of which the payment of the assessment can be enforced in case the board of education refuses payment. ⁴

Alaskan jurisprudence declared in 1901 that a municipal corporation may provide for the maintenance of the public school by taxation, and by other such methods of raising money as are necessary to meet that requirement. ⁵ Nothing definite was stated in this Alaskan court decision but it is a presumption to state that other methods of raising money must mean the sale of school bonds, anticipation warrants, etc.

In regard to county taxation for the support of public schools, it was

¹Nelson vs. Town of Homer, 48 La. Ann. 258, 19 So. 271 (1896).

²Sutton vs. School City of Montpelier, 28 Ind. App. 315, 62 N. E. 710 (1902).

³Board of Education of City of Chicago vs. People, 76 N. E. 75, 219 Ill. 83 (1905).

⁴City of Chicago vs. City of Chicago, 69 N. E. 580, 207 Ill. 37 (1903).

⁵Chambers vs. Solner, 1 Alaska 271 (1901).

declared by a court of Alabama that the imposition by Saint Clair County to tax residents for the better support of schools in the county was purely a local situation involving local taxation, though imposed by authority from the general assembly. ¹

In Montana, a statute imposing a school tax also places a burden on administrators for its proper administration. ²

It is not essential, in some jurisdictions, in regard to the validity of an election held to determine the rate of millage to be levied and assessed for a school district, that there shall have been a previous registration of the qualified electors of the district that pay a tax on real or personal property. ³

"A board of education authorized to issue bonds cannot allege, as a defense thereto against a bona fide purchaser, that it failed to comply with the Constitution requiring that, at or before incurring such indebtedness, provision should be made for the collection of an annual tax to pay the interest and principal, where the bonds contained a recital 'that all conditions and things required to be done, precedent to and in the issue of said bonds, have duly happened and been performed as required by law'." ⁴

Normal schools and other institutions of higher learning have the right to tax for their support. ⁵

Recognizing the fact that education is a public duty, Supra, p. 10, and that education is supported by local taxation, Supra, p. 14, it has been held

¹Southern Railroad Co. vs. Saint Clair County, Alabama (1899).

²Hilburn vs. Saint Paul, etc. R. Co., 23 Mont. 229, 58 P 551 (1899).

³Pickett vs. Russell, 42 Fla. 116, 28 So. 764 (1900).

⁴Wilson vs. Huron Board of Education, 12 S. D. 535, 81 N. W. 952 (1900).

⁵State ex rel. McCausland vs. Freeman, loc. cit.

that the act of the legislature of Kansas (Laws of 1899, chapter 189) in arbitrarily establishing a high school, and requiring maintenance by the people of a county, is not an unconstitutional interference with the rights of local self-government. ¹

Another Kansas decision has declared that the right to tax will be denied if there is a reasonable doubt as to the existence of such right. ²

Money cannot be raised by taxation to provide for scholarships or otherwise for the support of students in the public schools. ³

An act creating several school districts out of an existing district does not, in the absence of express provision, affect the validity of taxes already levied, assessed, and appropriated by the old district and which are in the process of collection, even though the act is to take effect immediately. ⁴

¹State ex rel. McCausland vs. Freeman, loc. cit.

²Marion, etc. R. Co. vs. Alexander, 64 P 378, 63 Kan. 72 (1901).

³State ex rel. Garth vs. Switzler, 143 Mo. 287, 40 LRA 280, 65 Am. St. Rep. 653, 45 S. W. 245 (1898).

V. COURT CASES FROM 1906 TO 1915

It has been held that there is no delegation of taxing power where the legislature fixes the amount or rate of the tax. ¹ And the legislature may delegate power to municipal corporations to make and levy special and local assessments. ²

"A greater New York charter (Laws 1901, c. 466 and Laws 1908, c. 490) authorizing the city to sell at public auction liens which it holds against lands for taxes and assessments, and that on the owner's failure to pay the purchaser interest, the whole of the lien shall become payable at the purchaser's option, etc., is not invalid as delegating to the purchaser's part of the power of taxation, since the sale assumes a valid tax and lien, under legislative authority to prescribe the method of collection.

"A 'tax' is not a debt of the person charged or a judgment against him, but is a contribution or demand in a sum fixed by law enforceable in a prescribed nature, and a sale of the right to receive a tax, and of its lien, does not affect their character or their relation to the taxpayer or his property." ³

It is clear from the above materials that the procedure for taxation is subject to the final interpretation of various courts of law. The legislature can and does determine basic school law (statutes); however, it gives school authorities great latitude in determination of discretionary decisions.

¹Minsinger vs. Rau, 236 Pa. 327, Ann: 113 ALR 1417, 84 A 902 (1912).

²Anderson vs. Ocala, 67 Fla. 204, 64 So. 775 (1914).
Lyon vs. Hyattsville, 125 Md. 306, 93 A 919 (1915).

³Gautier vs. Dittmar, 204 N. Y. 20, 97 N. E. 464 (1912).

"Subject to constitutional limit, everything to which the legislative power extends may be taxed, whether persons or property, tangible or intangible, franchise, privilege, occupation, or right.

"All persons owning any mineral rights on the land of another, or any oil or gas privileges by lease or otherwise, etc. to list them for taxation.

"Also, all persons owning any property, mineral rights, or branded trees on the lands of another, or any coal, oil, or gas privileges in the state, other than in the county in which they reside, or if they reside out of state, to list the property for taxation personally or by agent in the county where situated." ¹

Furthermore, it has been held that the citizens of a district may be taxed to support a state educational system even though open equally to all residents of the state, if the institution is so located as to give special advantage and opportunity to the residents of the district.

"Acts authorizing counties and municipalities to issue bonds in aid of public normal schools, does not infringe Constitution of 1870, article 2, section 29, limiting the taxing power of such subdivisions to county and corporate purposes, though students from other counties are received in such schools." ²

In some states, the validity of legislation delegating to school districts the power to levy taxes depends upon the status of the district as a municipal corporation. Nebraska recognizes that school districts are legally considered to be municipal corporations. ³

¹Wolfe County vs. Beckett, 17 LRA (NS) 688, 127 Ky. 252, 105 S. W. 447 (1907).

²Ransom vs. Rutherford County, Ann. Cas. 1912 B 1356, 123 Tenn. 1 130 S. W. 1057 (1910).

³Wilkinson vs. Lord, 24 LRA (NS) 1104, 85 Neb. 136, 122 N. W. 699 (1909).

Atchinson, T. and S. F. R. Co. vs. State, 40 LRA (NS) 1, 28 Okla. 94, 113 P 921 (1911).

School districts are public quasi corporations included in the term municipal corporations and so come within the express provisions that no city, county, town, or other municipal corporation shall contract any debt, pledge of faith, or loan its credit, etc., nor shall any tax be levied unless by a vote of the qualified voters. ¹ On the other hand, a school district whose directors are appointed, rather than elected by the people, has been held not to be municipal in nature within this rule. ²

Some courts, furthermore, have held that school districts are not municipal corporations within constitutional provisions inhibiting the legislature from imposing a tax on such corporations for municipal purposes. ³ In other words, Idaho school districts cannot tax indiscriminately without regard for county and legislative sanctions.

The Supreme Court of Florida made a decision in which it declared that the power that was given the legislature by the constitution of the state of Florida to prescribe the powers of municipalities, and to authorize cities and towns to assess and impose taxes for municipal purposes, did not permit municipalities to issue bonds and to levy a municipal tax to pay the bonds, when the proceeds were to be used for the purpose of erecting schoolhouses and maintaining a system of public education. ⁴

"School taxes are state taxes, Kentucky, and should be included

¹Smith vs. School Trustees, 141 N. C. 143, 53 S. E. 524 (1906).

²Atchinson, T. and S. F. R. Co. vs. State, loc. cit.

³Fenton vs. Ada County, 119 P 41, 20 Idaho 392 (1911).

⁴Brown vs. Lakeland, 61 Fla. 508, 54 So. 716 (1911).

by the county clerk in the state tax bill, so that they may be collected by the state tax collector; the fact that under Kentucky Statutes, ss. 4426A9 to 4426A13, school taxes are levied by the fiscal court upon recommendation of the county board of education and paid to the county superintendent, and do not go into the state treasury, not changing the nature of the tax, which is levied under an express grant of power from the state." ¹ (Underlining mine).

The state legislature may delegate its power of taxation to towns, under constitutional limitations.

"The town of Glastonbury, having taken over the school property of the school district, failed to levy an equalization tax as required by public acts of 1909. The Supreme Court of Errors of Connecticut ruled that the levy of an equalization tax was mandatory." ²

In relation to consolidated school districts and elections therein, a Kentucky court held that the voters of the district might vote one tax after another until sufficient sum was raised to conduct the school(s) according to the voters' desires. ³

In addition, the Supreme Court of the United States in its partial interpretation of the Fourteenth (14) Amendment of the U. S. Constitution, declared, that this Amendment did not forbid the delegation to a municipal council, or to a board appointed for that purpose, the power to divide businesses or corporations carried on in a city into classes or subclasses, and prescribe the tax to be paid by the members of each class. ⁴

¹Ramsey vs. County Board of Education, 159 Ky. 827, 169 S. W. 521 (1914).

²Second School District of Town of Glastonbury vs. Town of Glastonbury, 86 Conn. 590, 86 A 577 (1913).

³Christopher vs. Robinson, 175 S. W. 387, 164 Ky. 262 (1915).

⁴Bradley vs. Richmond, 227 U. S. 477, 57 L. Ed. 603 (1912).

Various states are not in agreement on the liability of indebtedness concerning municipal budgets. The main question is centered around whether or not school indebtedness is also municipal indebtedness within the city, town, county, etc. The points most frequently considered by the courts in determining this question are whether such school districts should be excluded, on the ground that they are debts of a political entity independent of the municipality, and whether debts for school purposes should not be considered in applying debt limitation, because they are debts incurred, not for a particular purpose, but for a general state purpose, in respect for which the municipality acts merely as a governmental agency.

"A separate enactment creating the school district of the city of Detroit, while intrusting officers of the city with some of the details of the school organization, shows that it was the legislative purpose to make the school district a distinct corporation. The city charter deals strictly with municipal expenses and indebtedness and makes no provision for those of the schools. Held that school indebtedness is an 'independent corporate indebtedness' and not alligned with city municipal indebtedness, even when boundaries are coterminous." ¹

A number of other court cases have made similar decisions as the Michigan judgment mentioned above. ² In addition:

"Bonds issued by an independent school district of the city of Grand Forks are not to be computed as debts of the city in ascertaining whether the debt limit has been exceeded." ³

Some of the courts have regarded school obligations as incurred for

¹McRae vs. Thompson, 168 Mich. 511, 134 N. W. 722 (1912).

²Ex parte Newport, 141 Ky. 329, 132 S. W. 580 (1910).

³Ex parte Ashland vs. Park Commissioners, 111 N. W. 615, 16 N. D. 25 (1907).

state purposes and the municipality as merely acting as an agent of the state in performing the questioned functions. ¹

"A county court which has for some time maintained, and originally established, a system of county schools may decline to vote funds or to levy a tax for the continuance of such schools; or, if an assessment therefor has been made, it may, before it has been certified to the trustees of the county for collection, be revoked." ²

The word municipal is said to have two meanings, one of which is pertaining to the internal government of a state or nation, and in that sense every corporation formed for governmental purposes is a municipal corporation -- this would naturally include school districts. In its primary sense, municipal means pertaining to a town or city or its local government.

The word municipal is coming to have a more extended meaning than it originally had, and is often used interchangeably with the words political or public. ³

The state has the power to require of its municipal subdivisions the performance of duties of the state concern and to demand that these subdivisions raise money and disburse the same for such state purposes. ⁴

Money may be raised by taxation in a district which does not provide a school, to pay the tuition of the children of the residents of such district in a

¹McRae vs. Thompson, loc. cit.

²Gaylor vs. Ridenow, 4 Tenn. Civ. App. 734 (1913).

³ 51 Am. Jur., Taxation, section 565.

⁴Associated Schools vs. School District, 122 Minn. 254, 142 N. W. 325 (1913).

Smith vs. School Trustees, loc. cit.

Atchinson, T. and S. F. R. Co. vs. State, loc. cit.

school district.

In the majority of school cases concerning school districts and tuition charges, the state laws and statutes require as mandatory measures that payments are to be made to respective operational school districts. Taxes levied for tuition charges are enforceable as if they were taxes for the direct payments of regular operational schools within the local district.

A law of the state of Minnesota provides that one or more rural school districts may become associated with a high school for the purpose of general education and provides that such associated schools may charge nonresident pupils a tuition, which shall be a charge against the school district in which such non-resident pupils reside. ¹

In 1914 an Indiana court held that it was mandatory to levy a tax for the support of kindergartens in cities of more than 100,000 population; this levy was discretionary in cities with less than 100,000 people. ²

In regard to city taxation for schools beyond the city limits but within the school district, a California court declared that this type of taxation was legal and therefore, under the constitution, was sanctioned by California jurisprudence. ³

In agreement with Pickett vs. Russell, Supra, p. 25, the state of Oklahoma, in a similar case, declared:

"A taxpayer seeking to enjoin the extension of an additional tax

¹Associated Schools vs. School District, loc. cit.

²Morrison vs. State, 105 N. E. 113, 181 Ind. 544 (1914).

³Visalia Savings Bank vs. City of Visalia, 94 P 888, 153 Cal. 206 (1908).

for school purposes, purporting to be authorized by an election held pursuant to Rev. Laws 1910, s. 7383, upon the ground that thirty per cent of the legal voters living in such school district did not participate therein, may establish such fact by parole evidence. The law requiring registration of voters in cities of the first class does not apply to such elections." ¹

Transportation of school children and the expenses derived from it have been of great importance to school authorities and school districts for many years. Many reports, pamphlets, and professional articles have been written in relation to this subject. A New Jersey court held the following decisions in 1906.

"Whenever in any district there shall be children living remote from the schoolhouse, the board of education ... may make rules and contracts for the transportation of such children to and from school." ²

A school board may bring mandamus against a city to enforce the levy of a tax for the support of the schools of the city, including high schools. ³ And the exercise of the power of taxation rests with the legislature and is plenary and supreme. ⁴

The repeal of a school tax law is usually not favored by the courts. The courts of the various states tend to favor the school district in its manner of securing revenues for educational purposes.

"A statute treating a subject in a general manner, and not expressly contradicting a prior special act in relation to a

¹McCreary vs. Lee, 45 Okla. 201, 145 P 777 (1915).

²Board of Education vs. Atwood, 73 N. J. L. 315, 62 A 1130 (1906).
Infra, chapter VIII.

³Louisville vs. Commissioners, 134 Ky. 488, 121 S. W. 411 (1909).

⁴Salt Lake City vs. Christensen Co., 17 LRA (NS) 898, 34 Utah 38, 95 P 523 (1908).

detail of that subject, shall not be considered as intended to affect the more particular previous provision, unless it is absolutely necessary to give the latter act such construction in order that its words may have any meaning at all." ¹

Where an act revises the whole subject matter of the law in relation to school taxation, it is usually held to be a substitute for a former act(s), although it contains no express words to this effect.

"Some statutes ... limit the rate of taxes that can be levied in any taxing district for any and all purposes. Any statutes existing at the time of the passage of these sections, in direct conflict therewith, and not specifically repealed thereby, are repealed by implication." ²

The language granting or delegating power to school districts to tax for revenues must be strictly construed. ³ However, this general fact does not authorize the courts to place on such language a construction or interpretation so narrow as to withhold or deny powers plainly given. ⁴ However, where the power to tax is merely ministerial, a failure to conform to the statutes will not make the tax illegal. This ministerial function pertains to all employees of city and county municipal corporations.

"Where the election has been held, and the result declared in favor of local taxation, the tax is not illegal because it was levied by the board of trustees and the county commissioner, instead of the secretary of the board of trustees and the

¹Clemans vs. Wheeling School District Board of Education, 68 W. Va. 298, 69 S. E. 808 (1910).

²Rabe vs. Canton School District Board of Education, 88 Ohio St. 403, 104 N. E. 537 (1913).

³State vs. Board of Education of School District of Parkersburg, 68 W. Va. 40, 69 S. E. 378 (1910).

⁴Ibid.

county school commissioner." ¹

In some areas of the state of Kansas a tax may be levied for school purposes on the presentation of a petition of the electors of the district to a designated board or officer.

"Under the provisions of chapter 263 of the Laws of 1911, a petition signed by 190 of the school electors of a county having a population of less than 1,000 was presented to the county superintendent and board of county commissioners asking that aid be voted to maintain a high school in the county. The county superintendent and the board decided to provide the aid petitioned for, and thereupon at the same meeting in August, 1912, the county board levied a tax sufficient to raise the amount necessary." ²

In absence of gross abuse of discretion on the part of school boards in levying taxes for school purposes, and in determining the number of schools that are necessary, a board of education performs judicial acts. It has been held that county commissioners were not justified in reversing the action of the board of education of the county by ordering a larger tax levy and the establishment of another district. ³

The state of Washington's Constitution expressly provides for the establishment of normal schools as a part of the public educational system. ⁴ This taxing power for the establishment of normal schools must have been considered as an important part of legislative control due to the number of relative court

¹Dehbs vs. Hardin, 137 Ga. 191, 73 S. E. 582 (1911).

²State vs. Haskell County, 92 Kan. 961, 142 P 246 (1914).

³Washington Township Board of Education vs. City Board of Education, 10 Ohio N. P., N. S., 505 (1909).

⁴School District vs. Bryan, 20 LRA (NS) 1033, 51 Wash. 498, 99 P 28 (1909). Supra, p. 25.

cases recorded within the various law publications.

It has also been declared by courts of law that, in relation to school taxation, if the purpose for which a tax has been voted fails, the tax itself fails.¹

School districts may tax for roads to schoolhouses.² And, taxes may be levied for repairs and erection of school buildings.

"A tax is proper under the designation of 'building purposes' for the payment of all sums expended and all obligations incurred for the improvement, repair, or benefit of the school building and property, where a school district in erecting a school building issued bonds to provide money therefor. And, the board properly levied a tax under the head of building purposes to pay the balance due the contractors at the time the levy was made, and to meet the payment of bonds falling due on July 1st. following."³

Various states have held it valid to tax citizens for the installation of a heating plant under building purposes and the purchasing of selected sites under building purposes.

"Where a board of education has been authorized to build a new school building and issue bonds of the school district to pay therefore, and to levy an additional tax for building purposes to supplement the bonds, it had authority to levy a tax for a heating plant to be installed in such building."⁴

"The right by constitutional provision authorizing an additional tax within the school district for the erection and equipment of buildings the authorizing of the power to purchase sites is valid."⁵

In many jurisdictions a property tax is considered a tax on the person

¹Moore vs. Sabine Parish, 131 La. 757, 60 So. 234 (1912).

²Brockway vs. Louisa County, 133 Iowa 293, 110 N. W. 844 (1907).

³People vs. Ill. Cent. R. Co., 266 Ill. 240, 107 N. E. 253 (1914).

⁴St. Louis, etc. R. Co. vs. People, 224 Ill. 155, 79 N. E. 664 (1906).

⁵Glass vs. Pool, 106 Tex. 266, 166 S. W. 375 (1914).

of the owner of the property, assessed on him on account of his ownership. Although the tax is measured by the amount and value of the property and can be collected out of the property, it is nonetheless a tax on the owner and not on the property. This debt becomes a personal obligation of the owner. ¹

Special school taxes, in the absence of statutory restriction, may be levied at any time for the current year. ²

Territory within a school district at the time of the creation of a bonded indebtedness and subsequently organized into a separate school district cannot thereafter be taxed to pay such bond issues where none of the property, for which such district debt incurred, was retained by the new district. ³

¹Equitable Trust Co. vs. Kelsey, 209 Mass. 416, 95 N. E. 850 (1911).

²Argyle Plating Co. vs. Connely, 125 La. 685, 51 So. 687 (1910).

³State vs. San Mateo County, 27 Cal. App. 708, 151 P 33 (1915).

VI. COURT CASES FROM 1916 TO 1925

In the absence of constitutional provisions, the legislature may provide for the levy of a school tax without the question being first submitted to a vote of the people. ¹ The fact that the legislature in one specific instance may delegate the determination of the amount of a school tax, as is the general case, to the voters does not affect its power subsequently to vary that tax. ²

The sovereign state may tax, if for no other reason, due to the inherent obligation of the state to protect its citizens. ³

"Sovereign regulation of inheritances and successions to estates is not essential to the existence of government, but sovereign control and protection in such matters is conducive of a higher and better state of government than could be attained without such control and protection, and to such extent the power to control is inherent. Likewise, if sovereign protection be necessary in order to attain a higher and better state of government, then the power to raise revenue for the expense of protection is inherent in the sovereign which affords the protection." ⁴

The legislature may also limit or define the amount or extent that the local citizens may carry as a tax burden. This applies to all equipment for public free schools.

¹Larue vs. Redmon, 168 Ky. 487, 182 S. W. 622 (1916).

²Ibid.

³Re Harkness, 42 ALR 399, 83 Okla. 107, 204 P 911 (1921).

⁴Ibid.

"As school districts are but instruments of the state, although quasi municipal in character, the Free Text-Book Act of 1917, requiring the furnishing of free books to high school students, cannot be deemed invalid as resulting in imposing additional taxes on the school districts, for the Legislature may define the extent of the burden to be borne by the district and prescribe the duties of school boards in providing equipment."¹

The legislature may repeal a school tax just as it has the power to levy a school tax.² And the legislature may change or alter a school tax.³ Furthermore, the legislature may withdraw the power of taxation at its discretion.⁴ Subject to constitutional regulations, the legislature may validate an erroneous exercise of taxing power by a local authority. This action by the legislature is considered to be a form of curative legislature:

"Illinois Act approved June 14, 1917 purporting to validate all elections for the organization of high school districts, etc., had the effect to make valid every act of a board of education which, under the school law, boards of education were empowered to do and perform, including high school taxes previously levied."⁵ (Underlining mine).

However, in contrast to the above court cases, certain jurisdictions have been declared, under legislative power and required constitutional provisions, powerless in regard to the right to levy school taxes.⁶

¹Macmillan Co. vs. Clarke, Ann: 46 ALR 697, s. 106 ALR 916, 17 ALR 288, 184 Cal. 491, 194 P 1030 (1920).

²Berrier vs. Davidson County, 186 N. C. 564, 120 S. E. 328 (1923).

³Salt Lake City Board of Education vs. Hanchett, 50 Utah 289, 167 P 686 (1917).

⁴People vs. Cleveland, etc. R. Co., 288 Ill. 70, 122 N. E. 792 (1919).

⁵Fisher vs. Fry, 288 Ill. 11, 122 N. E. 811 (1919).

⁶Williamson vs. McClain, 147 Tenn. 491, 249 S. W. 811 (1923).

In two additional court decisions within the state of Tennessee, it was declared that the prohibition against the delegation of taxing power was inapplicable.¹

"There is no constitutional limitation placed upon the Legislature with reference to the formation of school districts or as to agencies the state shall adopt for providing for free schools, and it is competent that the Legislature provide for the establishment of township high schools as well as district schools, and confer upon each of said boards powers of taxation."²

In Louisiana, a state with parish units as opposed to county units in other states, the courts have expressed their judgments in regard to the imposition of taxes on parishes for purposes of public education. It is usually held that state legislatures in applying taxes to municipalities for the support of public schools do not thereby impose taxes for support of local corporate or municipal purposes.

"Acts 1920, no. 152, ss. 1, 2, and 4, providing for creation of parish-wide school districts for the purpose of voting and levying tax, held not violative of Constitution article 10, s. 10, authorizing any 'parish, school district, or subschool district' to levy tax in excess of limitations otherwise fixed for additional support of public schools."³

Where the duty to levy a tax has been held by courts to be merely ministerial, no specific duty is imposed on the taxing authorities to make a levy until a certificate or estimate has been furnished.

¹Greenwood vs. Rickman, 145 Tenn. 361, 235 S. W. 425 (1921).
Quinn vs. Hester, 135 Tenn. 373, 186 S. W. 459 (1916).

²People vs. Cleveland, etc. R. Co., loc. cit.

³Louisiana and A. R. Co. vs. School Board, 157 La. 1046, 108 So. 318 (1925).

"A statute requiring county boards of education to estimate and lay before the fiscal court the county's educational needs, etc., is not complied with by a mere request to tax at a certain rate without an estimate of the amount of money needed." ¹

With regard to school taxation, the courts have ruled that ministerial agencies have limited powers. Some ministerial agencies having only the power of ascertaining the rate to be used for levying taxes.

"Where the county board of education preposes and submits to the fiscal court a detailed budget showing the needs of the schools for the succeeding year, it is incumbent on the fiscal court to make such levy as to raise the amount required, and in doing so it has no discretion other than the power to limit the rate of taxation for school purposes to such sum as will raise the amount demanded." ²

Under provisions of law stating that school boards must follow all mandates within legal jurisdiction (jurisprudence) and exactness of definitions, various court decisions have held that detail or definitions strictly construed is not required in all such cases.

"Plaintiff claimed that in order to levy a special tax to build an addition to a gymnasium and playground, the school district had to list in detail where all monies were to be used. The school board listed the monies to be levied under 'general school purposes' only. The school board intended to use any remaining money for a teachers' cottage." ³

The reason the school board did not list the money under specific items was that the school board did not want to be tied to any one commitment

¹Floyd County Fiscal Court vs. Floyd County Board of Education, 175 Ky. 517, 194 S. W. 561 (1917).

²Elliott County Fiscal Court vs. Elliott County Board of Education, 193 Ky. 66, 234 S. W. 947 (1921).

³Randall vs. School District No. 44 of Grays Harbor County, 119 Wash. 222, 205 P 748 (1922).

for use of tax monies. The tax was held as legal by the courts which stated that exclusive detail was not needed.

In New York state, the commissioner of education ordered that a specific consolidated school district had to provide for pupils' transportation, and if necessary, to raise money by taxation for this service. The Appellate Division Court declared that the order and tax was invalid, even if authorized by a specific statute. ¹ Transportation is considered a discretionary procedure by school authorities and school districts.

In one specific case, a consolidated school district whose organization was affected by an election held on October 22, 1920 could function before June 30, 1921, the end of the school year. Furthermore, a tax levy voted on April 5, 1921 was valid though the old district continued to exist until the end of the school year for certain purposes. ²

A number of court cases have been included within this review that are related to the creation of new school districts and the dissolution of old school districts. A number of interesting judgments have been recorded in various states. Many of these decisions are based, quite naturally, on statutes; however, some of the final decisions seem to be based on the record of previous court decisions.

It has been held that a school district not organized in the prescribed manner has no power to authorize an assessment of taxes. ³

¹Board of Education of Union Free School District No. 2 of Town of Brookhaven, Suffolk County, 210 N. Y. S. 439 (1925). Supra, p. 34.

²State vs. Consolidated School District No. 1, 238 S. W. 819 (1921).

³Graham vs. Roberts, 145 Ga. 758, 89 S. E. 1045 (1916).

A tax levy by the board of education of a school district, not a de jure or de facto body, has been declared invalid.

"Where at the time a tax was attempted to be levied by a board of education of a school district a judgment quashing the record of the school district and ousting the board in force, the board was neither a de jure nor a de facto body, and was without power to levy the tax, and such objection to the tax was valid, not being an attack upon the organization of the district, but upon the power or authority of the persons levying the tax." ¹

The discretion of the authorities levying a school tax is plenary and comprehensive. ²

The right to provide means for the transportation of pupils and teachers to and from school also provides for the purchasing of vehicles. ³

In the state of Georgia, apparently, school vehicles can be used to transport all teachers to school on a daily schedule.

Notice of a proposed tax election is necessary, in some states, for the validity of the tax. The notice must follow all statutory regulations.

"Relying on the school district to keep within the statutory limit (35-mill levy) at the annual meeting, and in absence of a notice that a proposition for an increase would be submitted, electors satisfied with any level not exceeding 35 mills would be without pecuniary motive to attend. With notice of an election calling for a vote on such a proposition, there might be an inducement to participate, including the right to publicly oppose the increase. Notice of an election

¹People vs. Cleveland, etc. R. Co., 312 Ill. 48, 143 N. E. 425 (1924).

People vs. N. Y. Central R. Co., 283 Ill. 334, 119 N. E. 299 (1918).

²Evans vs. Gore, 40 S. CT. 550, 11 ALR 519, 253 U. S. 245, 64 L. Ed. 887 (1919).

³McKenzie vs. Board of Education, 158 Ga. 892, 124 S. E. 721 (1924).

would interest electors favoring an increase. It seems clear that, without disregarding some provision of the statute, the regular annual school district meeting held in 1920, in absence of notice of a proposition to increase the levy beyond 35 mills, was without power to do so. The school district, therefore, went beyond its powers." ¹

An order of the board of supervisors levying a tax for school purposes is invalid, in Mississippi, unless it appears from the minutes of the board that the petition therefor required by statute, signed by a majority of the qualified electors, was filed with the board of education supervisors. ²

"A local school board, for the maintenance and support of which there existed no express power to levy a tax at the time of the adoption of the Constitution of 1877, does not thereafter authorize the levy of a tax by the county authorities to support the same, without compliance with the provision of that Constitution inhibiting the levy of tax by counties, unless the law authorizing the levy has been approved by two-thirds of the popular vote." ³

Another southern court case makes comment on taxation and the support of white and colored schools. The Kentucky court stated that in certain instances the legislature provided that local school taxes shall be levied on the property of white citizens for white schools and colored citizens for colored schools; however, the Kentucky Constitution does not require this to be done as described. It further commented that white citizens may be taxed for colored schools. ⁴ The converse would in all probability also hold true.

¹Chicago, B. and Q. R. Co. vs. Kearney County School District No. 57, 110 Neb. 459, 194 N. W. 479 (1923).

²Great Southern Lumber Co. vs. Jefferson Davis County, 133 Miss. 229, 97 So. 545 (1923).

³Richter vs. Bacon, 145 Ga. 408, 89 S. E. 367 (1916).

⁴Pineville vs. Moore, 190 Ky. 357, 227 S. W. 477 (1921).

In Ohio, a school district was judged as being entitled to reimbursement for school children who were inmates of a childrens' home or orphanage and attended said school district's public schools. The charge was placed upon the school district from which the inmates had previously attended school before becoming inmates. ¹

Double taxation is not legal. And an Illinois court made the following comment concerning it:

"Two school districts could not lawfully exercise power of levying taxes against the same property for same purpose." ²

In 1919 the Springfield, Illinois Board of Education was granted a court judgment in its favor in regard to Illinois statutes and the right to purchase playground and athletic field land. The court declared:

"A board of education of a city school district, maintaining twenty schools, and vested with all powers of trustees, school directors, and boards of education under Hurd's Revised Statutes 1917, c. 122, s. 354a, is empowered, under chpt. 122, s. 127, cl. 5, to purchase land, for playgrounds and athletic fields, though it is not contiguous to an existing school-house site." ³

The Marshall Township High School District, Chicago, Illinois, was involved in a court case (decision) concerning the legality of determination of size, cost, etc., of high school buildings.

"The board of education of a high school district is clothed with the power to determine the size, character, and cost of

¹State vs. Sherman, 104 Ohio St. 317, 136 N. E. 625 (1922).

²People vs. Ill. Central R. Co., 118 N. E. 495, 282 Ill. 29 (1917).

³Reiger vs. Springfield School District Board of Education, 287 Ill. 590, 122 N. E. 838 (1919).

the high school buildings when no limit as to the cost has been placed upon them by a vote of the people and whenever in their judgment, after a school building has once been erected, additional facilities are needed by the district, the board has a right to levy a tax for the purpose of building an addition to such building and to enter into contracts for its erection and improvement." ¹

When the legislature authorizes an additional taxation by a popular vote for the erection of school buildings, the power to purchase sites for such buildings is included. ²

"Under statutes of 1909, s. 11337, providing that all personal property situate in a county other than that in which the owner resides shall be assessed in the county in which he resides, and s. 11355, providing that the taxation of personal property of decedent shall be by and for the school districts in which the decedent resided in such county at his death, the property of a resident of a school district, owning a farm, stock, and implements in another school district of the county, was taxable in the district of his residence." ³

In Detroit City, a court held that school and library taxes, as well as bonds, should be excluded in determining the two (2%) per cent limit of indebtedness, as specified for the city as municipal purposes. ⁴

In addition, it has been held that a tax on shares of stock is not a tax on the property of the corporation, thus, shareholders are not entitled to have a deduction from the value of the shares of the amount of capital stock of the company which is invested in public building bonds, and, in addition, in basic guaranty fund

¹Lee vs. Marshall Township High School District No. 200 Board of Education, 234 Ill. App. 141 (1924).

²Rockdale vs. Cureton, 111 Tax. 136, 229 S. W. 852 (1921).

³State vs. Pearson, 273 Mo. 72, 199 S. W. 943 (1917).

⁴Detroit vs. Engel, 207 Mich. 106, 173 N. W. 547 (1919).

warrants. ¹

Personal property tax, assessed against specific personal property, is the personal obligation of the person owning the property at time of assessment, which the time of the listing of the property by the assessor. ²

An employee of the federal government is not exempt from a personal tax levied for school purposes. ³ And, school taxes are considered to be corporate taxes. ⁴

"An ordinance requires a tax to be levied for school purposes on all taxable property within the city, etc; includes land within a city school district but outside the city limits, providing that territory outside the city shall be deemed a part of the city for purposes of levying school taxes, etc." ⁵

¹Board of Equalization vs. First State Bank, 77 Okla. 291, 293; 188 P 115 (1920).

²Wilberg vs. Yakima County, 132 Wash. 219, 231 P 931 (1925).

³New Cumberland Borough School District vs. Taylor, 6 Pa. Dist. and Co. 532 (1925).

⁴People ex rel. Goodell vs. Chicago and N. W. R. Co., 121 N. E. 731, 286 Ill. 384 (1919).

⁵Wible vs. Bakersfield, 42 Cal App. 77, 183 P 291 (1919).

VII. COURT CASES FROM 1926 TO 1935

The legislature may provide for an efficient school system by levying a tax which is sufficient when distributed on a pro rata basis, or, by raising the lower limit of the school tax rate. ¹

The general assembly of Illinois has the power to create non-high school districts within the state, and, to delegate to them the power to levy taxes for their maintenance. ² And the legislature of Arkansas has been granted full and complete power in matters of general taxation for support of common schools by the courts. ³ Again in Illinois, the general assembly may provide for the establishment of township high schools, and, confer the power of taxation on district boards of education. ⁴

The voters of Oklahoma have been granted the right to raise the ad valorem rate of taxation, but not to exceed ten mills on the dollar valuation. ⁵

¹Talbott vs. Kentucky State Board of Education, 244 Ky. 826, 52 S. W. (2) 727 (1932).

²Board of Education of Paris Union School District No. 95, Edgar County, Ill. vs. Board of Education of Non-High School District No. 185, Edgar County, Ill., 242 Ill. App. 488 (1926).

³Special School District No. 60 vs. Special School District No. 2, 181 Ark. 253, 25 S. W. (2) 443 (1930).

⁴People vs. Pinari, 163 N. E. 385, 332 Ill. 181 (1928).

⁵Excise Board of Marshall County vs. School District No. 34 of Marshall County, 156 Okla. 261, 10 P (2) 643 (1932).

Taking into consideration legislative controls and constitutional restrictions, the necessity of the power of governmental agencies to tax is regarded as unlimited. ¹ In some states the constitution expressly authorizes the delegation of taxing power to school districts. ²

In contrast to the above mentioned court decisions, and under specific statutes, the board of education of a school district is considered only as an administrative body with no power to levy or collect taxes. ³ Also, a board of education has been judged as having no power to impose a school tax under provisions granting such power to a city council and making the board of education of a city merely an arm of city government. ⁴

"Under statutes requiring electors of school district to vote tax levy for maintenance of schools upon trustees' submission of budget setting forth expenditures of preceeding year and requirements of ensuing year, action of electors of common school district in voting an annual budget specifying amount to be used for employment of teachers and total amount to be raised by tax levy for ensuing year held binding on trustees with respect to teachers' contracts previously executed." ⁵

The general assembly of the state of North Carolina has power to authorize and direct counties of the state, as administrative units of government agencies, to provide necessary funds by taxation or otherwise to maintain schools

¹Miles vs. Department of Treasury, 209 Ind. 172, 97 ALR 1474, 199 N. E. 372 (1935).

²Salem Independent School District vs. Circuit Court, 244 N. W. 373, 60 S. D. 341 (1932).

³Hockensmith vs. Board of Education of Franklin County, 240 Ky. 76, 41 S. W. (2) 656 (1931).

⁴State vs. City of Racine, 205 Wisc. 389, 236 N. W. 553 (1931).

⁵Copenhauer vs. Common School District No. 17 of Canyon County, 56 Idaho 182, 52 P (2) 129 (1935).

at least six months. ¹

"A statute requiring county commissioners to levy tax sufficient to produce five cents per day for each pupil in attendance in common schools of county held not to violate constitutional provisions requiring the uniformity of taxation, since amount so fixed represented at least local benefits that representative counties obtained." ²

A county fiscal court can levy and collect common-school taxes and consolidate school taxes in consolidated school districts. ³ County Board of Supervisors in the state of Virginia have authority of delegated power of taxation. ⁴

An act granting to parish school boards of several parishes authority to hold elections for purposes of levying special tax to derive funds for the construction of junior colleges was held not in conflict with Louisiana Constitution of 1921. ⁵

"Chapter XV of the home-rule charter of the city of Minneapolis, conferring certain powers upon the board of estimate and taxation, does not deprive the board of education of the city of Minneapolis of its power to levy taxes to carry out its duty to maintain a thorough and efficient system of public education.

"The maintenance of the public school system is a matter of state and not a local concern." ⁶

¹Evans vs. Mecklenburg County, 205 N. C. 560, 172 S. E. 323 (1934).

²Newman vs. Schlarb, 184 Wash. 147, 50 P (2) 36 (1935).

³Fidelity & Deposit Co. of Maryland vs. Commonwealth, for Use and Benefit of Nelson County, 299 Ky. 170, 60 S. W. (2) 345 (1933).

⁴Board of Supervisors of King and Queen County vs. Cox, 155 Va. 687, 156 S. E. 755 (1931).

⁵McHenry vs. Quachita Parish School Board, 169 La. 646, 125 So. 841 (1929).

⁶State ex rel. Board of Education of City of Minneapolis vs. Erickson, 190 Minn. 216, 251 N. W. 519 (1933).

The rate which may be fixed for taxation purposes by a fiscal court is limited by statute and must be strictly construed. ¹

"Various constitutional and statutory provisions as to payment or redemption of school bonds determine, within their scope, matters relating to the power and duty of providing for and making payment, and the time and manner of so doing." ²

It has been held by the courts that the property held by a county is held for the express purpose of aiding or facilitating the discharge of governmental functions; therefore, this property is exempt from taxation. All powers and functions of the county bear a general reference to the general policy of the state; hence, a county is not strictly a municipal corporation. ³

"Under a statute authorizing a municipality to levy a tax to defray cost of school buildings, title to school property must be acquired by municipality before tax can be levied." ⁴

Due to the variations in applicable constitutional and statutory provisions, court cases are not in agreement as to whether debts incurred for school purposes constitute a part of the indebtedness, for purposes of debt limitations, of the municipality in which the school district is located. ⁵

"Outstanding indebtedness of school districts and municipal corporations within county held not indebtedness of county as

¹Newell vs. Cincinnati, N. O. and T. P. Ry. Co., 246 Ky. 628, 55 S. W. (2) 662 (1932).

²Parsons vs. Batesville School District No. 1, 189 Ark. 1057, 76 S. W. (2) 83 (1934).

³O'Berey vs. Mecklenburg County, 67 ALR 1304, 198 N. C. 357, 151 S. E. 880 (1930).

⁴Carey vs. City of Haleyville, 230 Ala. 401, 161 So. 446 (1935).

⁵Sanders vs. County Court, 115 W. Va. 187, 174 S. E. 878 (1934).

basis for determining whether proposed bond issue exceeds limitation on indebtedness.

"Constitutional and statutory limitations on indebtedness of political subdivisions, such as counties, school districts, and municipal corporations, apply distributively and not collectively.

"Outstanding indebtedness of magisterial districts as basis for determining whether proposed bond issue exceeds limitation on indebtedness." ¹

An election which is held for the purpose of levying an educational tax in school districts, and which does not have a registration of the qualified voters, is void. ²

All taxes imposed for the common school purpose are state taxes. A state legislative act is necessary for levying these taxes. ³

In regard to school census and taxation, if latest school census is unavailable for tax computation purposes, which might be a result of a number of circumstances, the local school board has the authority to check census to determine tax computations. ⁴

"Where attempt was made in good faith under valid law to organize consolidated school district, and all legal requirements were complied with, except that plats required to be posted did not sufficiently describe boundaries of school

¹Ibid.

²Price vs. Hodges, 172 Ga. 871, 159 S. E. 241 (1931).
Supra, pp. 25 and 33.

³Paducah-Illinois R. Co. vs. Graham, D. C. Ky., 46 F (2) 806 (1931).

Richardson vs. Liberty Independent School District, Civ. App., 22 S. W. (2) 475 (1929).

⁴State ex rel. White vs. Lander, 137 Kan. 693, 21 P (2) 933 (1933).

district, and persons elected directors assumed authority and conducted school for three years, de facto school district was created, conducted by de facto officers, all taxes were valid." ¹

The objections to taxes, levied by a high school district before a judgment of ouster against it in quo warranto proceeding, were held as not being a collateral attack on organization of district. ²

It is a duty to make sufficient levy to produce revenue in accordance with statutory regulations within the state of Kansas. And if sufficient funds are not available a levy continues until such funds are available. ³

"County supervisors have no discretion to reduce amount payable to junior college for educating outside students. And county supervisors, having made illegal reduction in laying taxes to reimburse junior college could make relevy in following year to make up deficit." ⁴

The board of education has the authority to agree with a fiscal court on what levy was necessary for school expenditures. ⁵

A small excess over the regular county board of education's requirements was held not a show of bad faith warranting refusal by fiscal court to make tax levy demanded by the board. ⁶

¹State vs. Johnson, 316 Mo. 21, 296 S. W. 806 (1927).

²People vs. Calloway, 329 Ill. 505, 160 N. E. 834 (1928).

³Board of Education of City of Pratt vs. Rubank, 247 P 855, 121 Kan. 562 (1926).

⁴Pasadena Junior College District vs. Board of Supervisors of Los Angeles County, 216 Cal. 61, 13 P (2) 678 (1932).

⁵Madison County Board of Education vs. Madison County Fiscal Court, 249 Ky. 540, 61 S. W. (2) 25 (1933).

⁶Allen County Fiscal Court vs. Allen County Board of Education, 242 Ky. 546, 46 S. W. (2) 1070 (1932).

After the issuance of bonds, it is the duty of a school district to procure funds with which to pay the obligation created with such bonds. ¹

"Consolidated school district pending determination of quo warranto proceedings in respect to dissolution of district was de facto corporation.

"Unless consolidated school district, which, by reason of restraining order issued by Superior Court at time of institution of quo warranto proceedings, was the only organization that could function as a school district, could function as at least a de facto corporation, great public injury would necessarily result." ²

A consolidated district tax, levied without separate assessment of property in the district by the tax assessor is void, and the collection of revenue will be enjoined. ³ As a general rule, all persons and property are subject to local taxation the same as with other taxes and taxing procedures. ⁴

"Independent school district, created by special acts pursuant to Constitution, has authority to levy and collect taxes within its territorial limits ... regardless of question of remote location of land within district." ⁵

An Illinois school board of education may levy an annual tax to establish and support schools for a specific period of time. ⁶

¹Consolidated School District No. 4 of Greene County vs. Day, 328 Mo. 1105, 43 S. W. (2) 428 (1931).

²Gray vs. Clay County School District No. 73, 224 Mo. App. 905, 28 S. W. (2) 683 (1930).

³Morgan vs. Wood, 140 Miss. 137, 106 So. 435 (1926).

⁴Board of Education of Meade County vs. Bunger et al., 240 Ky. 155, 41 S. W. (2) 931 (1931).

⁵Ferguson vs. Academy Consolidated Independent School District, 14 S. W. (2) 1051 (1929).

⁶Llewellyn vs. Board of Education of Cicero-Stickney High School Township District, 324 Ill. 254, 154 N. E. 889 (1927).

In absence of constitutional inhibition, the general assembly has the power to direct issuance of bonds for educational purposes by school or high school district, without submitting to the vote of the people. ¹

"Act No. 173 of 1928, providing for creation of junior college to be maintained and supported by levy on property in junior college district enacted to carry out provisions of Constitution 1921 to co-ordinate elementary and secondary schools and higher educational institutions of state, supervision thereof to be enforced by parish school board." ²

On some occasions, under unusual circumstances, a school district can suffer the loss of its taxing power:

"High school district, on severance of part thereof, sending its pupils under contract to another district, was not entitled to levy school tax, nor could such tax be enforced by mandamus, since immediately, on severance of part of district containing schoolhouse, arrangements for temporary location of high school under section 1741 should have been made until district was ready to purchase site and erect suitable building." ³

A legislative act in 1879 provided that the city of Bainbridge, Ga. is authorized to levy an annual tax, in addition to the usual tax, not to exceed 0.4 of 1% for the purpose of establishing and maintaining public schools. ⁴

A number of court cases have been cited which show that various school districts and their authorities, officers, etc., have the right to levy additional taxes for any number of financial situations. It is apparent that school districts

¹Powell vs. Hargrave, 136 S. C. 345, 134 S. E. 380 (1926). See additional information under BONDS in the general index.

²McHenry vs. Quachita Parish School Board, loc. cit.

³Rice vs. McClellan, 202 Cal. 650, 262 P 1092 (1927).

⁴Atlantic Coast Line R. Co. vs. City of Bainbridge, 175 Ga. 160, 165 S. E. 107 (1932). See additional information in relation to fixed amounts of revenue, final paragraph, pp. 44-45.

are allowed much freedom in their attempt to secure adequate funds for schools.

"When incorporated universities exist which are founded and supported by the state, they are generally treated by the courts as public rather than private corporations." ¹

These universities have access to general taxation revenues, as well as special revenues and grants. In the case cited above, Purdue University, the University received its original land from the famous Land Grant appropriations.

School taxes cannot be legally levied and collected, in some states, until authorized by the mode prescribed for the exercise of the power to levy and collect such taxes. ²

In regard to the necessity of itemization for legality of taxation, a North Carolina court ruled the following as a valid listing:

"A tax levy for 'current expenses, supplement' was held sufficient showing in support of levy for instructional service and auxiliary agencies." ³

It has been held that where land had been sold to state for taxes, and the sales appeared regular on the face, the county could not sue the taxpayer for personal debt for taxes, since sale to state discharges the personal liability of the taxpayer. There was no personal debt on which the action under the Code of 1906, s. 4256, and the case was dismissed. ⁴

"Tax on receipts of gross income held 'excise tax' levied upon residents of state upon basis of privilege of domicile,

¹Russell vs. Purdue Univ., 201 Ind. 367, 168 N. E. 529 (1929).

²Adams vs. Miles, 35 S. W. (2) 123 (1931). Supra, p. 49 (contrast).

³Powell vs. Bladen County, 206 N. C. 46, 173 S. E. 50 (1934).

⁴Carrier Lumber & Mfg. Co. vs. Quitman County, 156 Miss. 396, 124 So. 437 (1929).

and not a tax on property within constitutional provision for uniformity." ¹

A school district does not violate the constitution in the state of Missouri by completing a portion of a school building, as planned. It is not required that a complete structure be erected at any one time. ²

"Statutory power to provide transportation for pupils 'to and from school' does not include authority to use school buses and school funds in the transporting of pupils to athletic contests, spelling contests, oratorical contests, moving picture shows, reformatories, and to the scene of taking a class picture; nor for transporting teachers to teachers' institutes and conventions." ³

The territory of a rural high school district which was transferred to another district after completion of former district's bond issue was still liable for bonded indebtedness even though an appeal involving the question of transfer was pending when the bonds were issued. ⁴ On the other hand, where consolidated school district is extended to include contiguous territory taken from another district, all inhabitants and their property within extended limits are subject to taxation to raise money for all legitimate purposes. This obligation includes the payment of obligations district incurred before extension. ⁵

A common school district changed into an independent school district did not thereby acquire taxing power of an independent school district until election and qualification of its trustees. Meanwhile, the taxing authority of the commissioners'

¹Miles vs. Department of Treasury, loc. cit.

²Peter vs. Kaufman, 327 Mo. 915, 38 S. W. (2) 1062 (1931).

³Schmidt vs. Blair, 213 N. W. 593, 203 Iowa 1016 (1927).

⁴Pessemier vs. Plummer, 135 Kan. 429, 10 P (2) 887 (1932).

⁵Hule vs. Morris, 176 Ga. 562, 168 S. E. 566 (1933).

court remained in effect and a tax levied by it was not nullified by subsequent tax levy of the qualified trustees. ¹

"Rolling stock of railroad moving habitually through different territorial subdivisions has been held not subject to tax in particular school districts, where there was no statute authorizing distribution of tax among districts." ²

A similar case is recorded below:

"Intentional interruption of movement of commodity in interstate commerce for purposes beneficial to owner, who did not from the beginning expect to have uninterrupted movement to destination, but arranged for holding it until further movement could be made, renders commodity subject to local taxation.

"Holding oil in tanks located on pipe lines extending from oil fields to refinery in another state, some of which remained in storage for several months in tanks which were of greater capacity than required for continuous operation of pipe lines, and at all times contained large quantity of oil, held to break continuity of interstate journey, and subject oil to local taxation." ³

However, a later case denied an ad valorem school tax on oil held in tanks. ⁴

¹Pyote Independent School District vs. Dyer, Civ. App., 14 S. W. (2) 289 (1929).

²Tennessee Coal, Iron and R. Co. vs. Board of Education of Jefferson County, C. C. A. Ala., 80 F (2) 307 (1935).

³Gulf Refining Co. vs. Phillips, C. C. A. La., 11 F (2) 967 (1926).

⁴Gulf Refining Co. vs. Sandlin, 47 S. Ct. 93, 273 U. S. 697, 71 L. Ed. 845 (1926).

VIII. COURT CASES FROM 1936 TO 1945

It has been established in Pennsylvania that no citizen has a constitutional right to be protected from increased taxation for school purposes. If the legislature deems that a more costly system of education is necessary, it may increase the taxes as a right of its constitutional powers. ¹ The state, as a sovereign power, has the inherent power to determine the subjects for taxation for both general and particular purposes. The state may make changes in the selection and classification of the properties made subject to exemption from taxation. ²

"Quasi public corporations are created by the government to undertake some public function, or enterprise in which the public interests are directly involved to such an extent as to justify conferring upon such corporations important governmental powers, but are not created for political purposes." ³ (Underlining mine).

Maintenance of public schools and the subsequent furnishing of all things necessary, essential, and reasonable to that end are within the mandatory provision of the constitution of North Carolina, relating to public education. This mandate is unaffected by a constitutional provision prohibiting taxation by a municipality without voters' approval except for a necessary expense. ⁴

¹Malone vs. Hayden, 329 Pa. 213, 197 A 344 (1938).

²Long vs. St. John, 109 ALR 809, 121 Fla. 1, 170 So. 317 (1936).

³Egan Independent School District vs. Minnehaha County, 108 ALR 572 (1936).

⁴Bridge vs. City of Charlotte, 221 N. C. 472, 20 S. E. (2) 825 (1942).

"Under constitutional provisions relating to power of municipal corporations to assess and collect taxes for corporation purposes, the Legislature cannot grant the right to assess and collect taxes to any other than the corporation authorities of the municipalities or districts to be taxed, and such taxation must be for corporation purposes and cannot be imposed without the consent of the taxpayers to be affected." ¹

County taxes for support of public free schools is distinct from county taxes for county purposes. ²

"Ordinarily where there is statutory authority in county board of supervisors to make a tax levy, the courts have no right to review the administrative details of levying levies, such matters being within discretion of board,

"However, expediency cannot supply authority to levy taxes. Nor, for that matter, the fact that county board of supervisors, in levying taxes for many years, had followed the practice complained of did not add anything to validity of practice." ³

City board of aldermen in levying a local school tax at request of local board of education is acting only as an agent of the state. ⁴

In contrast to reports mentioned above, some courts have held that debts incurred for school purposes do constitute part of the legal indebtedness of a municipality within debt limits. ⁵

¹People ex rel. Bargan vs. N. Y. Central R. Co., 390 Ill. 30, 60 N. E. (2) 228 (1945).

²Hamrick vs. Special Tax School District No. 1 of Jefferson County, 178 So. 406, 130 Fla. 453 (1938).

³Maricopa County vs. Southern Pacific Co., 63 Ariz. 342, 162 P (2) 619 (1945).

⁴Board of Education of Louisville vs. City of Louisville, 288 Ky. 656, 157 S. W. (2) 337 (1941). Supra, p. 53.

⁵McCabe vs. Gross, 111 ALR 538, 274 N. Y. 39, 611; 10 N. E. (2) 576, 8 N. E. (2) 269 (1937).

"School districts are not 'tax districts' within TAX LAW, requiring county board of supervisors to exclude from tax districts' tax rolls realty sold to county at tax sales and not redeemed.

"The county is agency for school district in collection of school taxes.

"A school district tax, when levied by county supervisors, becomes part of general county tax." ¹

Another case states that unpaid school taxes which are levied on lands of property owner are county taxes and when collected become property of the county. ²

School taxes usually are considered to be state taxes. ³ State school taxes are usually levied by municipalities. ⁴

Any town or city may constitute a school district; a town or city as such cannot levy a tax for public free school purposes. ⁵

"Where city charter provided that management of public schools should be vested in school committee, power of committee to contract with teachers and superintendent was not limited to the making of contracts which would run only during the financial year of the city. Salaries were exercised

¹Union Free School District No. 11 of Town of Urbana, Steuben County vs. Steuben County, 178 Misc. 415, 33 N. Y. S. (2) 854 (1942).

²Matter of Wadhams' Estate, 249 App. Div. 271, 292 N. Y. S. 102 (1936).

³Pullman Car and Mfg. Corporation vs. Hamilton, 236 Ala. 209, 181 So. 244 (1938).

Board of Education of Louisville vs. City of Louisville, loc. cit.

⁴Ibid., both cases.

⁵Hamrick vs. Special Tax School District No. 1 of Jefferson County, loc. cit. See additional information under town and towns in general index. Also, see important items of special interest under city, general index.

by committee also." ¹

Cities and towns shall raise revenue by taxation for the support of public schools. This action, under statute, is mandatory as distinguished from permissive. This revenue may be used for school books, teachers' salaries, school supplies, salaries for janitors, items needed for school repairs, school physicians, nurses, etc. ²

"Board of education divided entire county into three sub-districts for purposes of submitting question of levy of taxes for local school purposes and in one subdistrict there were more than 4,000 registered voters, and although strict letter of the law was met in regard to posted notices and newspaper advertisements, only three places were designated as places to vote although subdistrict contained twelve voting precincts, and evidence showed that some of voters had no means of getting to polls and others saw no notices and that vote was viva voce, evidence showed that election was not held in such way as to permit free expression of the voters.

"The failure to object (voters) to proposed manner of holding election on levy of taxes for local school purposes did not 'waive' right to contest election." ³

Delegation of taxing power to municipalities is lawful where supervisory control is always vested in elective bodies. ⁴ Thus, school districts, as well as sanitation districts and park districts, can tax for a variety of needs or general subsistence.

¹Callahan vs. City of Woburn, 306 Mass. 265, 28 N. E. (2) 9 (1940).

²Ring vs. City of Woburn, 311 Mass. 679, 43 N. E. (2) 8 (1942).

³Gill vs. Board of Education of Carter County, 288 Ky. 790, 156 S. W. (2) 844 (1941).

⁴Wilson vs. Philadelphia School District, 113 ALR 1401, 328 Pa. 225, 195 A 90 (1937).

It has been held, under a variety of provisions, that taxing authorities may levy a tax for a county equalization program. ¹

The specific constitutional provisions against the delegation of taxing powers to special appointive commissions, private corporations, or associations, by the general assembly, were intended to protect against exercise of taxing power by officials not subject to control of people as voters. ²

In all but sixteen states, local school districts are completely independent of any municipal control. In eleven of these sixteen states, some local districts are independent, and some are dependent for specific decisions upon state departments or local municipal governments.

There is no constitutional tax limitation to the levy of taxes for the payment of the original or refunding of special tax school district bonds. ³

Under statute providing for the levy of district school taxes, there is no prima facie authority existing in any school district to levy such a tax. ⁴

"Trustees of separate school districts have power to regulate and conduct schools, hire teachers and fix their salaries, make reports of expenses, and recommend budgets to municipality located within district, but have no power to levy or collect taxes or issue warrants paying out funds of the district." ⁵

¹Northern Pacific Ry. Co. vs. Shoshone County, 63 Idaho 36, 116 P (2) 221 (1941).

²Wilson vs. Philadelphia School District, loc. cit.

³State vs. Special Tax School District No. 7B of Santa Rosa County, 131 Fla. 603, 179 So. 683 (1938).

⁴Wrightsville Consolidated School District vs. Selig Co., 195 Ga. 408, 24 S. E. (2) 306 (1943).

⁵Vanzandt vs. Town of Braxton, 14 So. (2) 222, 194 Miss. 863 (1943).

The contract associated with school district bonds includes the promise to repay the principal and interest at a specified rate on a specified date until maturity. ¹

"The statute authorizing school district that has valid outstanding nonbonded indebtedness to sell school bonds for purpose of funding the indebtedness does not violate Constitution which authorizes electors of school districts to vote tax for maintenance of schools, erection and equipment of buildings and retirement of existing indebtedness for schools but providing that no tax shall be appropriated for any other purpose." ²

It has been held that where a notice of call of school district bonds for redemption was not published as required by statute, bondholders were entitled to interest after the call and the county treasurer was within his rights in paying the interest from proceeds of refunding bonds issued to redeem bonded indebtedness of the district. ³

The holders of special obligation bonds issued by a college for the construction of an athletic building had full and complete remedy, by mandamus, to force the levy of taxes and the subsequent repayment of bonds by state authorities. ⁴

An unlimited taxing power per se cannot be delegated to appointive

¹Kansas City Life Insurance Co. vs. Evangeline Parish School Board, D. C. of La., 58 F. Supp. 39 (1944).

State vs. Rasmusson, 71 N. D. 267, 300 N. W. 25 (1941).

²Lakeside Special School District vs. Gaines, 202 Ark. 778, 153 S. W. (2) 149 (1941).

³People, for Use of School District No. 6, Conejos County vs. Schaeffer, 100 Colo. 70, 65 P (2) 699 (1937).

⁴Keller vs. State Board of Education of Alabama, 236 Ala. 400, 183 So. 268 (1938).

Johnson vs. City of Sheffield, 236 Ala. 411, 183 So. 265 (1938).

school officials. ¹

A school district's tax levying officers' discretion in fixing the necessary tax rate required for sufficient revenues is controlling, in absence of fraud or irregularity. ²

"School district directors, who abuse their discretion in certifying to board of county directors for special tax levy sum greatly exceeding amount required for teachers' salaries, must refund amount of excess payment, exacted by special tax levy, made in accordance with school district's budget certificate." ³ (Underlining mine).

The School Machinery Act is mandatory in its provisions that local administrative units make their contributions to the State Retirement Fund under the Teachers' and State Employees' Retirement Act. The local taxing authorities are required to levy taxes to provide necessary funds. ⁴

Educational fund taxes, as distinguished from building fund taxes, may be levied for the purpose of procuring furniture, fuel, libraries, and apparatus. ⁵

"The title of Teachers' Retirement Act of 1938 containing recital that funds for payment of retirement annuities and

¹Wilson vs. School District of Philadelphia, loc. cit.

²Kluckman vs. Trustees of Raymondville Independent School District, Civ. App., 113 S. W. (2) 301 (1938).

³Lowden vs. Board of Commissioners of Lincoln County, 101 Colo. 52, 69 P (2) 779 (1937).

Board of Education of Oklahoma City vs. Excise Board of Oklahoma County, 175 Okla. 363, 53 P (2) 565 (1936).

State vs. Board of Public Instruction of Dade County, 126 Fla. 142, 170 So. 602 (1936).

⁴Bridges vs. City of Charlotte, loc. cit.

⁵People ex rel. Schlaeger vs. Reilly Tar and Chemical Corporation, 389 Ill. 434, 59 N. E. (2) 843 (1945).

disability benefits should be raised by contributions from teachers and from state was not sufficiently broad to authorize local board of education or taxing authority levying school taxes to levy a special tax to pay pensions of superannuated teachers ineligible to become members of state system on merger of local system with state system, where no such provision was contained in title." ¹

Statutes relating to the taxing power of school districts and the subsequent expenditures of tax funds constitute part of law set up in pari materia; they must be construed together. ²

"The inclusion of amounts for abatements and deferred collections in board of education tax levies is valid, as against contentions that appropriations for abatements and deferred collections violated constitutional provisions requiring due process and providing for tax by valuation and for uniformity of taxation, and were double and uncertain." ³

Under the School Budget Act of the state of New Mexico, purchases for school repairs are direct charges against particular school districts. A tax to pay repair bills could be levied only within the district benefited, notwithstanding purchase or repair materials by county board of education, since, in such matters, a board represents the individual district in capacity of agent and does not have power to exercise county-wide authority. ⁴

"Under section of the Revenue Act dealing with suits for taxes on forfeited realty or delinquent personality, where recovery is sought for a portion of the taxes only, the county, city, town, school district or other municipal corporation to which that

¹Board of Education of Louisville vs. City of Louisville, loc. cit.

²Madeley vs. Trustees of Conroe Independent School District, Civ. App., 130 S. W. (2) 929 (1939).

³People ex rel. Toman vs. 1500 Lake Shore Drive Building Corporation, 376 Ill. 301, 33 N. E. (2) 455 (1941).

⁴McAtee vs. Gutierrez, 48 N. M. 100, 146 P (2) 315 (1943).

portion of the tax is due must sue therefor in its own name.

"School district was the 'proper party' to bring suit in personam to recover from owners of realty the school district's portion of delinquent real estate taxes." ¹

When a city street improvement district is created and shares of expenses are charged to a school district, governing school officials have the duty of raising funds annually for the payment of assessments against property for improvements. This duty is mandatory and cannot be omitted upon the discretion of taxing authorities. ²

"A statute authorizing school districts of first class to levy tax sufficient to pay minimum salaries and increments of teaching and supervisory staff was held unconstitutional delegation of taxing power, as applied to school district, members of board of which were appointed, notwithstanding salaries of teachers and supervisors were fixed by law, and notwithstanding statutes which require school board to employ teachers 'necessary' to keep public schools open, since numbers of teachers 'necessary' is matter necessarily within variable discretion of school board." ³

Under some statutes, it is the duty of non-high school districts to recoup from any detached territory a proportionate amount of the bonded indebtedness incurred before detachment. However, the taxable property in each of the detached areas, as well as the territory remaining in the district, must be taxed at a uniform rate, usually required by constitution. ⁴

¹School District No. 88 vs. Kooper, 380 Ill. 68, 43 N. E. (2) 542 (1942).

²Wilson vs. City of Hollis, 150 ALR 1385, 193 Okla. 241, 142 P (2) 633 (1943).

³Wilson vs. School District of Philadelphia, loc. cit.

⁴People ex rel. Hagler vs. Chicago, B. and Q. R. Co., 380 Ill. 120, 43 N. E. (2) 989 (1942).

"This fact that statute, providing for attachment of territory of disorganized school district to adjacent district does not expressly excuse property in such territory from liability for taxes to pay principal of, and interest on, bonds subsequently issued by adjacent district for refunding of its bonded indebtedness outstanding at the time of annexation, shows no intent to impose such liability, in absence of provision that property in attached territory shall be liable for such taxes." ¹

Contracts between a state and an oil drilling company have been held as oil and gas leases within the meaning of real property as defined by statute within the state of Texas. These leases may be taxed by the state, county, or school districts. ²

A board may contract with any person for the transportation of pupils, not exceeding a five-year contract. ³ Further, a county board of education may contract with individuals to transport school children in their own vehicles. ⁴

Limitation or laches does not bar action by mandamus by the holder of city street improvement bonds in regard to taxation for bond repayments. ⁵

"School board of a graded school district does not have power to levy taxes for the construction of a school building, but such powers are vested in the electors of the school district." ⁶

¹Hunziker vs. School District No. 26, Sheridan County, 153 Kan. 102, 109 P (2) 115 (1941).

²American Liberty Oil Co. vs. State, Tex. Civ. App., 125 S. W. (2) 1107 (1939).

³Austin vs. Bridges, 34 N. Y. S. (2) 3 (1941).

⁴Shores vs. Elmore County Board of Education, 3 So. (2) 14, 241 Ala. 464 (1941).

⁵Wilson vs. City of Hollis, loc. cit.

⁶Hatch vs. Maple Valley Township Unit School, 310 Mich. 516, 17 N. W. (2) 735 (1945).

"Where a board of education of a township rural school district ascertains that it has a surplus in the accumulated school operating fund sufficient to operate the district schools for the year and recommends no school taxes be levied in the district for that year, the county board of education has no power to order that a three-mill general property tax levy be placed on the tax duplicate of such township district." ¹

Funds available for payment of obligations for bonds issued and subsequent repayment must be disbursed on authority and order of school board, whether funds are in the form of bonds, interest coupons, or judgments. ²

A levy of a tax is valid to provide for interest and a sinking fund for payment of refunding bonds. ³

The action of a county tax adjustment board in reducing school city's total tax rate by reducing special school fund and tuition fund was held not valid because of failure to designate particular items affected. ⁴

"Tax levy by school district to pay five years' premium due for insurance on school building in fiscal year for which levy was made was not abuse of school director's discretion, although board later made arrangements to pay insurance annually, amount of such items being definite and certain." ⁵

The provision of school bonds for payment of principal and interest

¹Saul vs. Williams County Board of Education, 65 Ohio App. 343, 29 N. E. (2) 907 (1940).

²Bryon vs. Board of Public Instruction for Broward County, 142 Fla. 691, 195 So. 697 (1940).

³State ex rel. Consolidated School District No. 8 of Pemiscot County vs. Smith, 343 Mo. 288, 121 S. W. (2) 160 (1938).

⁴State ex rel. School City of South Bend vs. Thompson, 211 Ind. 267, 6 N. E. (2) 710 (1937).

⁵People ex rel. Pruemer vs. Ill. Central R. Co., 366 Ill. 441, 9 N. E. (2) 315 (1937).

at designated bank has been held as enforceable since time is important in any contract, and a change in place of payment may involve burdens not contemplated by purchasers. ¹ And bonds providing for payment in gold coin of the United States of or equal to present standard of weight and fineness are payable in lawful money of the United States. ²

"A junior college is not a 'common school' within the meaning of a constitutional provision that no sum shall be raised or collected for education other than in common schools without submission of the proposition to the legal voters, except that the existing tax for educational purposes and for the agricultural and mechanical college shall remain until changed by law, and of a statute stating that the term 'common school' shall be interpreted as meaning an elementary or secondary school of the commonwealth supported in whole or in part by public taxation." ³

A second class city's board of commissioners performs its whole duty by levying a tax which, when collected, will produce the sum requested by the board of education. The board of commissioners is not responsible for levying a tax which takes into account the possibility of some of the taxes not being collected. ⁴

"Shares of stock in banking institutions are expressly made subject to local ad valorem taxation by counties, cities, and school districts to a specified maximum, while intangibles of other owners are generally exempt from local taxation." ⁵

¹De Foe vs. Board of Public Instruction of Alachua County, C. C. A. Fla., 132 F (2) 971 (1943).

²Southwest Securities Co. vs. Board of Education of Village of Lovington, 40 N. M. 59, 54 P (2) 412 (1936).

³Pollitt vs. Lewis, 269 Ky. 680, 108 S. W. (2) 671 (1937).

⁴City of Paducah vs. Board of Education of Paducah, 289 Ky. 284, 158 S. W. (2) 615 (1942).

⁵Board of Supervisors of City of Frankfort vs. State National Bank of Frankfort, 300 Ky. 620, 189 S. W. (2) 942 (1945).

Property located within a common school district and annexed to an independent school district before a tax was levied for that year within the new independent district is liable and subject to taxation for that year. ¹

In an unorganized territory where there were no children of school age there existed no necessity and no legal cause for a special school tax for school support. People cannot be taxed except for a lawful purpose. ²

"The act authorizing non-high school district to levy taxes against detached territory to pay pro rata share of the district's indebtedness incurred during time that detached territory was a part of the district is invalid as an unconstitutional grant of taxing authority to corporate authorities other than the authorities of the district to be taxed, since after completion of detachment proceeding the board of education of the non-high school district is not a corporate authority of the detached territory." ³

¹Missouri-Kansas-Texas R. Co. vs. Cowden, 184 Okla. 260, 86 P (2) 776 (1939).

²Scandrett vs. Shoshone County, 63 Idaho 46, 116 P (2) 225 (1941).

³People ex rel. Bergan vs. New York Central R. Co., loc. cit.

IX. COURT CASES FROM 1946 TO 1955

County and township authorities may tax by authority invested by the state for taxation purposes. ¹

A tax levied on all property in a city for schools is constitutionally sufficient if tax is uniform, if tax is for a public purpose, and the whole city has an interest. ²

"Corporate authorities of cities and towns in state 'shall be vested' with powers to assess and collect taxes for corporate purposes" ³

A borough and a school district of a borough may levy tax on wages. This is not considered double taxation because the same tax is not imposed by the same power upon the same subject matter. ⁴

Recommendations by county boards of education as to the amount of tax levies for support of education in counties are mandatory on county boards of commissioners of roads and revenues or other fiscal authorities which levy taxes for counties. It is not within the discretionary authority of these county taxing

¹Moseley vs. Welch, 209 S. C. 19, 39 S. E. (2) 133 (1946).
Meeller vs. Conner, Co. Pl. Pa., 32 Erie Co. 115 (1948).

²Morton Salt Co. vs. City of South Hutchinson, C. A. Kan., 177 F (2) 889 (1949).

³Gand vs. Walker, 214 S. C. 451, 53 S. E. (2) 316 (1949).

⁴Glen Allen Coal Co. vs. Thomas, 165 Pa. Super. 199, 67 A (2) 754 (1949). See in addition p. 46, quotation number two.

units to omit official recommendations. ¹

"Under the general law providing for county free libraries, the county court of Knox County must either contract with the city of Knoxville for the use of the free library maintained by the city or establish a county free library by a tax levied upon property outside the corporate limits of the city." ²

Generally, townships, school districts, and road districts are not liable in case or other form of civil action for neglect of public duty. However, such liability can be created by statute. ³

Governing authorities of a tax levying district must levy a tax within limits prescribed by statutes, constitution, etc., in absence of sharing of illegal expenditures, computations unlawfully arrived at, or bad faith of authorities. ⁴

"Where the school tax levy has been ordered by board of supervisors on petition of electors of school district under statute providing that levy should remain same for successive years or as long as district was maintained, unless changed by petition of majority of electors, in absence of petition of majority of electors, subsequent refusal of board of supervisors to levy tax was improper." ⁵

In a situation in which the board of education issued tax anticipation warrants which were paid only in part from taxes against which warrants were

¹Board of Education of Wilcox County vs. Board of Commissioners of Roads and Revenues of Wilcox County, 201 Ga. 815, 41 S. E. (2) 398 (1947).

²Southern vs. Beeler, 183 Tenn. 272, 195 S. W. (2) 857 (1946).

³Cullor vs. Jackson Township, Putnam County, 249 S. W. (2) 393 (1925).

⁴Stockley vs. Fleming County Board of Education, 305 Ky. 602, 205 S. W. (2) 168 (1947).

Fyfe vs. Hardin County Board of Education, 305 Ky. 589, 205 S. W. (2) 165 (1947).

⁵State ex rel. Chatham vs. Board of Supervisors of Yalobusha County, 209 Miss. 79, 46 So. (2) 73 (1950).

drawn, and warrants were funded in part and refunded by bonds issued by the board, and Supreme Court held that bonds were invalid, bankholders could not be subrogated to rights, if any, of holders of warrants to require board to account as trustees of tax fund collected. ¹

In a situation where a school district imposed a tax of ten cents per ton of 2,000 pounds of coal mined in a district, the tax could not be sustained on the ground that it was a tax on the privilege, transaction, or occupation of mining coal, instead of a tax on coal. ²

"School districts are under no duty to levy a tax under Act of 1947, Tax Anything Act. It is a grant of purely optional power.

"The legislative direction in the Amendment of the Act of 1953, that a tax resolution adopted by a school district under authority of the Act of 1947, shall be passed or adopted during the period other school taxes are required by law to be levied and assessed by school district, is a limitation upon the grant of power and excludes the exercise of the power at any other time." ³ (Underlining mine).

Taxes levied by a newly consolidated district are valid and lien on all property within the district. ⁴

"A provision of the bond resolution for levy of direct annual taxes on all property in the district for the years 1949 to 1966 inclusive to pay the principal of and interest on the

¹Thorp vs. Board of Education of City of Chicago, 404 Ill. 588, 90 N. E. (2) 71 (1950).

²Jamison Coal & Coke vs. School District of Unity Township, 362 Pa. 389, 66 A (2) 759 (1949).

³In re. Ryan Township School District Amusement Tax of Three (3%) Per-Cent on Sales of Admission, 7 D. and C. (2) 199, 52 Sch. L. R. 26 (1955).

⁴Consolidated District No. 8 of Dallas County vs. Hooks, Mo. App., 222 S. W. (2) 355 (1949).

bonds was proper, notwithstanding a statute providing for dissolution of the district on or before June 30, 1953, and that issuance of the bonds would not constitute double taxation." ¹

The school laws give the board of education of Wilmington, Del. the right to determine what funds are necessary to operate public schools under the board's management and control. The city of Wilmington is merely an agency for raising the needed funds. ² Levies which result in an unnecessary accumulation of funds are invalid. ³

An independent act relating to taxation for school purposes has the effect of repealing by implication all prior statutes relating to the same subject inconsistent with its provisions. ⁴

In addition, a levy of school taxes for unauthorized purpose is void. ⁵

The Frank Lloyd Wright Foundation, a nonprofit organization which teaches architecture and collateral crafts to aspirant young would-be architects, could be taxed for school purposes due to its businesslike manner of operation. This court decision was decided on the basis of the number of contractual obligations in which the Foundation was directly involved with, irregardless of its educational

¹Mann vs. Board of Education of Non-High School District No. 216, 406 Ill. 224, 92 N. E. (2) 743 (1950).

²Mayor and Council of Wilmington vs. State ex rel. Du Pont, 5 Terry 332, 57 A (2) 70 (1947).

³People ex rel. Brenza vs. Morrison Hotel Corporation, 4 Ill. (2) 542, 123 N. E. (2) 488 (1954).

⁴Harlan-Wallins Coal Corporation vs. Cawood, 303 Ky. 544, 198 S. W. (2) 218 (1946).

⁵People ex rel. Schlaeger vs. Buena Vista Building Corporation, 396 Ill. 164, 71 N. E. (2) 10 (1947).

activities. ¹

"Authorizing (P. L. 2093, 53 - P. S., sect. 2015.1) school districts to tax persons, transactions, occupations, privileges, subject to personal property, school district may tax admissions to public and private places of amusement, including Country Clubs, whether or not a single admission is charged, or the admission is charged by annual dues or fees." ²

Kindergartens are not to be supported by state elementary school funds. And the board of supervisors had duty to levy a tax for a separate kindergarten fund according to estimates furnished and approved under state School Code of California. ³

"Where contract between Board of Control and Board of Public Instruction of Leon County whereby Board of County Commissioners agreed to pay \$141.00 per pupil on ADA at Demonstration School on the campus of Florida State University, and payments were approved by Board of County Commissioners of Leon County, and no ad valorem taxes were involved, contract did not violate constitutional provision requiring each county in the state to impose a tax for public free schools." ⁴

The obligation of the individual to pay taxes is founded on his participation in the benefits arising from their expenditures, and if it were possible and practicable to do so all taxes should be apportioned among the people according to the benefit each receives. ⁵

"The statute providing supplementary transportation for children

¹Frank L. Wright Foundation vs. Town of Wyoming, 267 Wisc. 599, 66 N. W. (2) 642 (1954).

²Williamsport Country Club vs. Wither, 5 Lycoming 174 (1955).

³Wall vs. State, 73 Cal. App. (2) 838, 167 P (2) 740 (1946).

⁴State vs. Board of Control, 65 So. (2) 469 (1953).

⁵Dickerson vs. Porter, 240 Iowa 393, 35 N. W. (2) 66 (1948).

attending school, and providing for payment of such transportation from general funds of county, making transportation available to children attending common, private, sectarian or parochial schools, is tax legislation for a public purpose and is not violative of constitutional provision prohibiting special privilege or requiring tax levies for public purposes only; but county should provide a general fund unit in budget sufficient to cover such item contemplated, rather than contemplate a special tax levy for such transportation purposes." ¹

Educational fund taxes can be levied for purposes of procuring furniture, fuel, libraries and other apparatus. ²

A tax exemption to be constitutional must benefit the body of the people, and not merely lessen the burdens of individual property owners. ³

The Supreme Court of Kansas has stated that it will not impute to the legislature an intention that the same realty shall be taxed in two high school districts. ⁴

Resolution of borough school district imposing a tax of five cents a ton for the privilege of dumping or unloading slate, stone, slag, cement and other waste material from the mining of coal or the manufacturing of steel, was void as violating statute denying authority to local bodies to impose a tax on tangible property subject to state tax.

¹Nicholas vs. Henry, 168 ALR 1385, 301 Ky. 434, 191 S. W. (2) 930 (1946).

²People ex rel. Schlaeger vs. Riche, 393 Ill. 85, 71 N. E. (2) 333 (1947).

³Dickinson vs. Porter, 31 N. W. (2) 110 (1948).

⁴State ex rel. vs. Lost Springs Rural High School District M. and D. No. 2, 176 Kan. 378, 271 P (2) 812 (1954). See additional information in the general index under double taxation.

A resolution by a borough school district imposing a tax on transportation of coal through the borough, was invalid, since only such property is taxable as has an actual situs within the boundaries of the borough. ¹

"Intangible personal property, such as leasehold royalty depletion agreements, has been held to have its situs for purposes of taxation at the domicile or residence of the owner and not to be taxable elsewhere." ² (Underlining mine).

Classification, for purposes of school district taxation, a mercantile tax, which divided wholesalers and retailers into separate classes and which subdivided wholesalers and retailers into four different classes, depending upon when business was originated and the permanency of business, was held not unreasonable or arbitrary. ³

"A resolution of school district board of directors, levying taxes on employees at specified rate for each employee within district during 1950, was invalid as resulting in double taxation of privilege or subject or employment on which state taxes are imposed by Unemployment Compensation Law requiring payment of contributions by employees into Unemployment Compensation Fund." ⁴

The power of school directors to levy taxes for school purposes has been acquiesced in by the people and sustained by the courts. ⁵

¹Appeal of Jones & Laughlin Steel Corporation, 362 Pa. 400, 67 A (2) 378 (1949).

²Girard Trust Co. vs. School District of Union Township, 41 Berks Co. 273, 74 Pa. Dist. and Co. 342 (1949).

³Appeal of School District of Allentown, 370 Pa. 161, 87 A (2) 480 (1952).

⁴Appeal of School District of N. Y., 367 Pa. 279, 80 A (2) 803 (1951).

⁵Brennan vs. Black, 104 A (2) 777 (1954).

X. COURT CASES FROM 1956 TO 1966

The legislature may delegate its power of taxation to the citizens who are taxable inhabitants of a local geographical area. ¹

"If a chartered municipality chooses to render financial assistance to education, that is a municipal affair, and therefore the choice of a plan of assistance, not in conflict with state statute, including the delegation of powers of government, as adopted by the voters in approving the charter provision, is within the powers of a chartered city." ²

The New York Central Railroad Company paid its taxes under protest and later filed objections to the petition filed by Edgar County Treasurer and Collector for judgment and the subsequent order of sale against lots and lands upon which taxes were delinquent. The county court sustained objection of defendant in a certain sum and denied petition of collectors for judgment in that amount, and overruled objection in further sum. This case was affirmed by the Supreme Court of Illinois. ³

A chartered municipality is free to act in furtherance of the policy of the state in favor of the diffusion of knowledge and intelligence, irregardless of the

¹Latham vs. Board of Education of City of Chicago, 31 Ill. (2) 178, 201 N. E. (2) 111 (1964).

²Berkeley Unified School District of Alameda County vs. City of Berkeley, 141 C. A. (2) 841, 297 P (2) 710 (1956).

³People ex rel. Beil vs. N. Y. Central R. Co., 10 Ill. (2) 612, 141 N. E. (2) 38 (1957).

fact that school districts are governed by state laws. ¹

"No authority exists exempting property of nonprofit cooperative association organized under Alaska Law to participate under the Rural Electrification Act from taxation by city of Anchorage and the Anchorage Independent School District." ²

A petition for writ of mandamus to compel Board of Supervisors of Prince Edward County to appropriate and make available to school board of that county sufficient revenues for operation and maintenance of the public free schools was denied. It was held that mandamus does not lie within the jurisdiction of forcing or compelling performance of discretionary duty. ³

"A lease exonerating lessee from liability for ad valorem taxes was one which county was authorized to make, and held that leasehold interest in the county property could not be assessed as tangible personal property." ⁴

Many court cases have been recorded within this review up to this point of reference. One illustration should be included for clarification. The judiciary may not interfere with legislative decisions in the determination of whether the administration of school systems shall be exercised by a state board of education or a local school corporation. ⁵

¹Berkeley Unified School District of Alameda County vs. City of Berkeley, loc. cit.

²City of Anchorage vs. Chugach Electric Association, C. A. Alaska, 17 Alaska 481, 252 F (2) 412 (1958).

³Griffin vs. Board of Supervisors of Prince Edward County, 203 Va. 321, 124 S. E. (2) 227 (1962).

⁴Park-N-Shop, Inc. vs. Sparkman, 99 So. (2) 571 (1957).

⁵Fruit vs. Metropolitan School District of Winchester-White River Township, Randolph County, 241 Ind. 621, 172 N. E. (2) 864 (1961).

A School Code of Illinois article which applies to cities over 500, 000 population does not permit Chicago Board of Education to levy taxes in violation of Constitution but permits only the municipal authority to levy said taxes. ¹

"Special tax levy to construct and operate junior college was not double taxation because property assessments for tax purposes had been increased to conform with constitutional requirement that all property be assessed at fair cash value since tax levy was originally passed by voters.

.....
"Collection of special levy by school board to operate junior college staffed and administered by state university under contract with school board was not discriminatory and arbitrary on ground that other communities operated similar colleges without special taxes." ²

Where plaintiff school district imposed a tax on a golf course under the Tax Anything Act, by an ordinance which although broad in scope actually taxes the defendant only, defendant will be required to pay the tax. ³ Furthermore, a school district may impose and collect an admission tax on the privilege exercised by fairgoers in attending a county fair since there is no comparable state tax on the privilege. Until there is such state tax, whether a fairground is a place of amusement is considered irrelevant under the statute. ⁴

In addition, a bowling alley owner sought to enjoin the township and school district from collecting an amusement tax on the ground that it had already

¹Latham vs. Board of Education of City of Chicago, loc. cit.

²Montague vs. Board of Education of Ashland Independent School District, Kentucky, 402 S. W. (2) 94 (1966).

³Langhorne Borough School District vs. Fazio, Pa. Com. Pl., 13 Bucks 203 (1963).

⁴School District of Cambria Township, Cambria County vs. Cambria County Recreation Association, Pa. Com. Pl., 24 Cambria 89 (1960).

paid a state sales tax on all of its tangible personal property and that the ordinance was unconstitutional as applied to the plaintiff. However, the court upheld the tax and held that the commonwealth's sales tax was too entirely different from the township's amusement tax for the owner to pre-empt the latter and that there was no merit to the plaintiff's constitutional contention. ¹

"A co-operative formed to purchase a federal housing project was informed by federal government that it would have to pay tax on transfer of realty or sale would be rescinded (because of possible impairment of mortgage being taken back by Public Housing Administration), co-operative's payment of transfer tax under protest was not voluntary; and there being no exclusive statutory remedy that would adequately protect the co-operative, co-operative was entitled to rely on common-law remedy and sue in assumpsit for recovery of amount paid.

.....

"Not every ingredient of transaction must take place within taxing district, and it is only necessary that phase upon which tax is based occur in taxing jurisdiction.

.....

"The so-called Tax Anything Act of 1947 was alone sufficient, without amendatory legislation, to sustain school district resolution taxing transfers of realty." ²

The policy of South Carolina is to tax the wealth where it is in order to educate the child where he is. ³

"Where taxpayers' lands were in common school district which lay entirely within former town which was consolidated with city, but village had begun annexation proceedings prior to consolidation so that city took territory by consolidation subject to defeasance when annexation became effective, annexation, if

¹Plymouth Lanes, Inc. vs. Plymouth Township, Pa. Com. Pl., 82 Montg. 281 (1963).

²Glendale Heights Ownership Association vs. School District of Borough of Glenalden, Pa., 143 A (2) 386, Pa. (1958).

³Stockhouse vs. Floyd, 149 S. E. (2) 437 (1966).

valid, prevented any automatic destruction of separate existence of school district and taxpayers' lands were subject to tax levied by school district for school purpose." ¹

¹Pascato vs. Byrne, 2 Wisc. (2) 520, 87 N. W. (2) 512 (1958).

XI. FINDINGS, IMPLICATIONS, AND CONCLUSIONS

The following materials are recorded here in order to illustrate the fundamental concepts, in numerical form, of the limitations of selected school activities for which tax support has been upheld by higher courts of law within the various states and at the federal level.

Most of the findings, implications, and conclusions are written in the form of broad generalizations. Only in unusual circumstances would the majority of states uphold any one specific generality.

Law, or the legality of law, is based primarily on the reasonableness of properly promulgated statutes.¹ Courts of law, as final sanctioning agents, make official judgments only on the reasonableness of the law, not on its inherent wisdom.

Semantics, the art of linguistics concerned with the nature, structure, development, and changes of the meanings of words, plays a very important part in the final analysis of the statutes by courts of law.

I. FINDINGS

The following findings are recorded here to illustrate the broad limitations of selected school activities.

(CONSTITUTION)

1. No person has a constitutional right to be protected from taxation.

¹See chapter number one: V. Law Concepts Relevant to this Study.

2. Constitutional provisions may constitute both a limitation and a grant of power on legislative mandates or statutes.

(LEGISLATURE)

1. The legislature may delegate the power of taxation to cities, county authorities, county commissioners, county fiscal courts, county boards of supervisors, parish school boards, subschool districts, municipal corporations, and school districts.
2. The legislature may repeal, change, or withdraw any tax it has levied.
3. In addition to its original property classification, the legislature may reclassify property in order to increase state revenues.
4. The legislature may tax under the obligation of self-protection of citizens.
5. The legislature may vary the amount of a tax after the voters' approval of a specified amount.

(MINISTERIAL AGENTS)

1. Local school taxation is a function of the state and local school units act merely as an agent for the state.
2. A county board may not tax if a school board in a given township declares that it has sufficient funds for its normal operations for the forthcoming year.
3. A municipal agent, acting merely as a ministerial agent, can only raise the amount requested by school authorities.
4. A ministerial agent has no power to determine the amount of taxation.
5. Ministerial agents are not required to levy a tax if existing conditions are known which show that certifying authorities are acting corruptly or in bad faith.

(SCHOOL DISTRICTS)

1. School districts in the process of dissolution may make advanced tax levies.
2. School districts can classify a mercantile tax in any number of methods in order to increase revenues for school purposes.
3. After consolidation, an old school district continues its operation as a district until the end of the fiscal school year.
4. The election and qualification of trustees are prerequisites to taxing power in newly created school districts.
5. Debts of school districts may or may not be debts for municipalities, depending upon court evaluation and circumstances behind the various debts.
6. A charter municipality may render financial aid to school districts upon voters' approval.

7. Municipal corporations may tax school districts for street improvements.
8. Consolidated school districts may levy one tax after another until sufficient funds are available.
9. Some school districts do and some school districts do not require a voters' registration before taxation elections.
10. Local school districts have exclusive power to determine the amount of taxes needed for local schools.
11. School districts may tax for construction, purchase, and repairs of school equipment.
12. Taxes may be raised by one school district for the tuition of students in another school district if an operable school is not available within the taxing district.
13. School districts may demand reimbursements for the tuition of children in a childrens' home or an orphanage when these children come from districts outside of the supporting district.
14. School districts may tax citizens who live outside of the district's territory but who send their children to territorial schools.
15. A school district may recoup from detached territory revenues for the payment of previously accepted bonded indebtedness.
16. Two separate school districts cannot tax the same person or property for the same purpose.

(SCHOOL BOARDS)

1. School boards may levy a tax for the general support of schools for a given period of time.
2. All taxation procedures by school boards not de jure or de facto in nature are invalid.
3. Courts of law will not usually interfere with school boards in regard to their budgets and associated items.
4. All payments by school boards must be made or issued on the authority of the school board.
5. School boards are political in nature.
6. School board officials who possess powers of taxation cannot delegate these powers to other agencies.

(TRUSTEES)

1. Trustees are bound to adhere to all requirements set down by voters in regard to wages for teachers.
2. City trustees can levy a tax on lands beyond the city limits but within the school district.

(PROPERTY)

1. Property taxes can be used for rent payments by local school districts.
2. Personal property is usually taxable in the district where it is

located.

3. Intangible personal property may be taxed and its situs is held to be at the domicile of the owner.
4. The sale of land to the state for the payment of a tax debt on the land releases the owner of all liability for taxation on said property.
5. Land is subject to taxation in the district where it is annexed.
6. In some circumstances, titles to lands must be secured before a tax can be levied for the purchase payment of said land.
7. Transfers of realty are taxable.

(BONDS)

1. Bonds may be sold to pay for maturing bonds.
2. When school bonds mature, the principal and interest must be paid unless the holders of said bonds agree to retain said bonds for an extended period of time.

(TRANSPORTATION)

1. Boards may contract with parents or other authorities to facilitate transportation of children to schools in remote areas.
2. As to time limits for transportation contracts, five-year contracts seem to be the maximum.
3. A county may pay transportation to common, private, or sectarian schools.

(SCHOOL LIBRARY FACILITIES)

1. A municipality may contract for the use of library facilities owned by another municipal agency.
2. Taxes may be levied for the establishment of school library facilities.

(GENERAL TAXATION)

1. Taxes are forced contributions for the general support of good government.
2. The enjoyment of special benefits is not necessary as a prerequisite for taxation.
3. Immediate access to school facilities is not necessary for official taxation legality.
4. Kindergartens are mandatory in large school districts.
5. Unlimited taxing powers may not be delegated to unofficial, appointed representatives of the citizens.
6. Territory within a school district at the time of the creation of bonded indebtedness, and subsequently organized into a separate school district, cannot be taxed to pay bond issues (refunds)

when none of the territory is retained in the new school district.

7. Life insurance is considered personal property; it is not taxed by local units for school purposes.
8. School levies must be levied in the same manner as all other forms of taxation.
9. Park or city boards of authority may tax school property which is not a part of school section number sixteen.
10. The state becomes a preferred creditor to the amount of state revenue payments apportioned to a county.
11. Required recitals, statements, and averments must be strictly followed in relation to petitions by voters.
12. Strict itemization of the various appropriations in a tax levy is not necessary for the validity of taxation.
13. The taxing authority determines the necessity of taxation.
14. Levies which yield an unnecessary accumulation of funds are invalid.
15. Local school authorities may tax for the support of high schools and junior colleges.
16. A tax to pay a five-year insurance premium, in one payment, is legal.
17. A board of commissioners may not raise additional taxes in the prospect that some of the taxpayers will not pay their taxes.
18. A tax for sinking funds is self-enforcing and no vote is necessary by the voters.
19. Taxation under the heading of taxes for the payment of building fees may be used for the payment of additions to school buildings or the acquisition of playgrounds.
20. The repeal of school taxes is not generally favored by the courts.
21. A county can exonerate a lessee from taxation.

II. IMPLICATIONS

When an act revises the complete subject matter of the law on taxation, it is usually held that this revision will substitute for all former acts although it contains no expressed words to that action.

The legislature may impose a tax burden on citizens; their consent is not necessary. In addition, if the legislature fixes the amount or rate of the tax there is no delegation of taxing power. The legislature retains all authority for taxation privileges.

III. CONCLUSIONS

The power of taxation is inherent in sovereignty. ¹ The state, as one sovereign power in educational processes, has full, complete, and unlimited power in regard to determination of school activities and the subsequent need for tax revenues. ² This power is necessary for good, efficient government.

The legislature has the duty to tax and may even force taxation on uncooperative school districts. These forced contributions (taxes) can be imposed on all citizens, businesses, and privileges not in conflict with the United States Constitution.

It is the function of laws and statutes to provide an efficient, good, common school education for all citizens. Consequently, courts of law will not read into the language of the various statutes statements which would prevent taxation and therefore prevent an efficient educational process.

Most of our present taxation procedures will continue in force because of the taxation factors which have become traditional points of law (such as the property tax), the general status quo of the courts of law (taxation laws are seldom revised or deleted), the socio-economic demands on taxpayers (cost of living increases), and the complacent attitude(s) of the voters. Limitations on school activities are a direct effect of the causal factor of taxation.

The various courts of law have passed judgments on such activities as business transactions, realty transfers, oil and gas leases, personal property,

¹This inherent power reserved for governmental units (state and federal) originated with the old divine-right-of-kings philosophy upheld in some Anglo-Saxon countries as well as some non-Anglo-Saxon countries.

²As long as these sovereign mandates are not in conflict with the United States Constitution.

dumping privileges of waste products from the coal and steel industries, transportation privileges, library facilities, de facto and de jure school districts, school board officials, trustees, and numerous other school-community-governmental procedures and activities.

Because the frame of reference within this study has been to what degree or to what extent have limitations been imposed on school activities and related processes by higher courts of law, and the basic subject matter has covered such a wide variety of activities, processes, and procedures, the entire thesis must be taken as a whole; it must not be divided for analysis.

APPENDIX I.

LEGAL DEFINITIONS

ad valorem tax - according to value, a percentage on the value of the property

appellant - the party who takes an appeal from one court or jurisdiction to another

assumpsit - a promise or engagement by which one person assumes or undertakes to do some act or pay something to another

certiorari - to be made certain in regard to

collateral - an attempt to avoid, defeat, or evade it, or deny its force and effect

contiguous - in close proximity; near, though not in contact; adjoining; touching;
near in succession

curative legislation - remedy; to correct a wrong

de facto - in fact, in deed; an officer who must be accepted for all potential purposes,
but is illegal or illegitimate

de jure - legitimate; lawful; by right and just title

defeasance - a collateral deed made at the same time as a feoffment or other conveyance, containing certain conditions upon the performance of which the estate then created may be defeated or totally undone

defendant - a person defending or denying; the party against whom relief or recovery is sought in an action or suit

demurrer - an allegation of a defendant, which, admitting the matters of fact alleged to be true, shows that the grounds that are set forth are insufficient for the plaintiff to proceed upon or to oblige the defendant to answer

domicile - that place where a man has his true, fixed, and permanent home or principal establishment

ex parte - on one side; by or for one party

eleemosynary - relating to the distribution of alms, bounty, or charity; charitable

enjoined - to require; command; to require a person to perform, or to abstain or desist from, some act

feoffment - the gift of any corporeal hereditament to another; things capable of being inherited

inter alia - among other things; the whole statute was not set forth at length

judgment - an opinion or estimate, a decision of a court of justice

laches - omission of something which a party might do and might be expected to do, if reasonable, towards vindication or enforcement of his rights

levy - a seizure, raise, execute, collect

mode - the manner in which something is done; the mode of process

pari materia - of the same matter, or the same subject

parole (evidence) - in addition to the regular held evidence

per se - in itself; taken alone; inherently

personality - personal property; movable property; chattels

plaintiff - a person who brings an action; the party who complains

plats - a map or representation on paper, usually drawn to scale

plenary - absolute; unqualified

prima facie - at first sight; on the first appearance; so far as can be judged on the first disclosure

property -

1. (personal) - subject to ownership, not real estate; movable
2. (private) - exclusive right to disposition; tangible; capable of being had in possession and transmitted to another
- houses, lands, chattels -
3. (real) - land, and generally whatever is erected or growing upon or affixed to land; immovable

quo warranto - by what authority does one support his claim, in order to determine the right

recital - a formal statement or setting forth of some matter of fact, in any deed or writing

remanded - send the cause back to the same court out of which it came, for purpose of having some action on it there

situs - location

subrogation - substitute for

viva voce - by word of mouth

warrant - a writing which authorizes a person to pay or deliver to another

APPENDIX II.

SUBJECT OUTLINE FOR ALL CHAPTERS

A. LEGISLATURE

- federal and state regulations**
- taxation procedures**

B. MUNICIPALITIES

- corporations**
- towns**
- cities**
- townships**
- counties**
- debts, debt limitation**

C. SCHOOL DISTRICTS

- officers must meet all requirements for legal taxation**

D. SCHOOL BOARDS

E. TAXATION IN GENERAL

- public duty**
- high school taxation**
- industrial schools**
- colleges**
- transportation**

F. PROPERTY TAXATION

- for school buildings**
- for rent**
- for playgrounds**

G. PERSONAL AND PERSONAL PROPERTY TAXATION

H. ADDITIONAL TAXATION PROCEDURES

boundary changes
special taxes
poll tax
parochial schools and taxation

I. OTHER MATERIALS

APPENDIX III.

OFFICIAL LAW PUBLICATIONS AND ABBREVIATIONS

STATE, FEDERAL	ABBREVIATION	PUBLICATION, DEFINITION
	Am. Rep.	American Reports
	Am. St. Rep.	American State Reports
	Ann.	annotation, annotated
various states	Ann.	Annual (publication)
	Ann. Cas.	Annotated Case(s)
various states	App.	appeals; Court of Appeals
various states	App. Div.	Appellate Division
Pennsylvania	Berks Co.	Berks County Law Journal
U. S.	C. C. A.	Circuit Court of Appeals
Pennsylvania	Cambria	Cambria County Reports, or Cambria County Law Journal
	Civ. App.	Court of Civil Appeals
Pennsylvania	Co. Pl. Pa.	Court of Pleas of Pennsylvania
U. S.	D. C.	District Court
Pennsylvania	D. & C., or Dist. & Co.	Pennsylvania District and County
Pennsylvania	Erie Co.	Erie County Law Journal, or Erie County Legal Journal
Kentucky	Ky. L.	Kentucky Law Reporter

STATE, FEDERAL	ABBREVIATION	PUBLICATION, DEFINITION
	LRA	Lawyers Reports Annotated
U. S.	L. Ed.	Lawyers' Edition
Pennsylvania	Lycoming	Lycoming Reporter
New York	Misc.	Miscellaneous Reports
Pennsylvania	Montg.	Montgomery County Law Reporter
	NS, or (NS)	New Series
New Jersey	N. J. L.	New Jersey Law Journal
Ohio	Ohio Cir. Dec.	Ohio Circuit Decisions
Ohio	Ohio N. P., N. S.	Ohio Nisi Prius (New Series)
Ohio	Ohio St.	Ohio State
Pennsylvania	Pa. Con. Pl.	Pennsylvania Court of Common Pleas
	s., or sect.	section
U. S.	S. Ct.	Supreme Court Reporter
Pennsylvania	Sch. L. R.	Schuylkill County Legal Record Reports
U. S.	Super.	Superior Court
various states	Supp.	Supplement
Delaware	Terry	Terry
New Jersey	Vroom	(See N. J. L., <u>Supra.</u>)

BIBLIOGRAPHY

Books

- Chambers, M. M. The Colleges and the Courts Since 1950. Danville, Illinois: The Interstate Printers and Publishers, 1964.
- Haas, Francis J. Man and Society. New York: Appleton-Century-Crofts, 1952.
- MacDonald, Austin F. American State Government and Administration. New York: Thomas Y. Crowell, 1960.
- Remmlein, Madaline K. School Law. Danville, Illinois: The Interstate Printers and Publishers, 1962.

Booklet

- Rezny, Arthur A. and Remmlein, Madaline A. A Schoolman in the Law Library. Danville, Illinois: The Interstate Printers and Publishers, 1962.

Dictionary

- Black. Black's Law Dictionary. St. Paul, Minnesota: West Publishing Co., 1951.

Public Document

- Illinois, State of Illinois Secretary of State. Constitution of the State of Illinois and United States. As adopted May 13, 1870, Springfield, Illinois.

Law Publications

The American Digest System: The American Digest System is a series of digests of cases from 1658 to date. There are eight units as follows:

- 1956 to date: General Digest, Third Series;
- 1946 to 1956: Sixth Decennial Digest (36 vols.);
- 1936 to 1946: Fifth Decennial Digest (49 vols.);
- 1926 to 1936: Fourth Decennial Digest (34 vols.);
- 1916 to 1926: Third Decennial Digest (29 vols.);
- 1906 to 1916: Second Decennial Digest (24 vols.);
- 1896 to 1906: First Decennial Digest (25 vols.);
- 1658 to 1896: Century Digest

National Reporter System: Includes all cases from all courts of record in all states

and gives the actual opinion of the court in each. The System is divided into nine geographical sections for publication and citation purposes:

- The Atlantic Reporter, abbreviated "A" - covers Maine, New Hampshire, Vermont, Connecticut, New Jersey, Pennsylvania, Delaware, and Maryland.
 - The Northeastern Reporter, abbreviated "N. E." - covers Rhode Island, Massachusetts, New York, Ohio, Indiana, and Illinois.
 - The Southeastern Reporter, abbreviated "S. E." - covers Virginia, West Virginia, North Carolina, South Carolina, and Georgia.
 - The Southern Reporter, abbreviated "So." - covers Florida, Alabama, Mississippi, and Louisiana.
 - The Southwestern Reporter, abbreviated "S. W." - covers Kentucky, Tennessee, Missouri, Arkansas, and Texas.
 - The Pacific Reporter, abbreviated "P" - covers Montana, Wyoming, Idaho, Kansas, Colorado, Oklahoma, New Mexico, Utah, Arizona, Nevada, Washington, Oregon, and California.
 - The Northwestern Reporter, abbreviated "N. W." - covers Michigan, Wisconsin, Iowa, Minnesota, North Dakota, South Dakota, and Nebraska.
- Also, this System includes the Supreme Court Reporter (U. S.), the Federal Reporter (Federal Circuit Courts of Appeals), and the Federal Supplement (lower federal court decisions).

American Law Reports: usually abbreviated ALR. Contains annotated reports of important law cases. Approximately 150 volumes (1967), with five or six new volumes per year.

Corpus Juris Secundum: usually abbreviated C. J. S. This is a second series of another important encyclopediclike law publication. Textual matter provides a running account of all law cases; copious footnotes gives citations to cases. There are 512 subtopics under "School and School Districts."

American Jurisprudence: usually abbreviated Am. Jur. This is the second edition of Ruling Case Law, abbreviated RCL. Only the leading cases are reported. The present volume dealing with "schools" was published in 1919. However, the publishers are in the process of replacing the 1919 edition (all volumes are being brought up-to-date).

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